THE MARWAR PENAL CODE, 1913.

CHAPTER I

INTRODUCTION.

Whereas it is expedient to provide a general Penal Code for Marwar, it is enacted as follows — Preamble

1 This Act shall be called the Marwar Penal Code and shall take effect throughout Marwar. — Title and extent of operation of the code

2 Every person shall be liable to punishment under this Code and not otherwise for every act or omission contrary to the provisions thereof, of which he shall be guilty within the said territories. — Punishment of offences committed within the said territories

CHAPTER II

GENERAL EXPLANATIONS

6 Throughout this Code every definition of an offence, every penal provision and every illustration of every such definition or penal provision, shall be understood subject to the exceptions contained in the chapter entitled "General Exceptions," though those exceptions are not repeated in such definition, penal provision or illustration — Definitions in the Code to be understood subject to exceptions

Illustrations

(a) The sections in this Code, which contain definitions of offences, do not express that a child under seven years of age cannot commit such offences, but the definitions are to be understood subject to the general exception which provides that nothing shall be an offence which is done by a child under seven years of age

(b) A, a Police officer, without warrant, apprehends Z, who has committed murder Here A is not guilty of the offence of wrongful confinemnt for he was bound by law to apprehend Z, and therefore the case falls within the general exception which provides that "nothing is an offence which is done by a person who is bound by law to do it"

7. Every expression which is explained in any part of this Code, is used in every part of this Code in conformity with the explanation. — Sense of expression once explained

8 The pronoun "he" and its derivatives are used of any person, whether male or female. — Gender

Number — **9** Unless the contrary appears from the context, words importing the singular number include the plural number, and words importing the plural number include the singular number.

Man / Woman — **10** The word "man" denotes a male human being of any age the word "woman" denotes a female human being of any age

Persons — **11** The word "persons" includes any Company or Association, or body of persons, whether incorporated or not

Public — **12** The word "public" includes any class of the public or any community

Queen — **13** The word "Queen" denotes the Sovereign for the time being of the United Kingdom of Great Britain and Ireland

13 (*a*) The word "Durbar" denotes the ruler, for the time being, of Marwar

British India — **15** The words "British India" denote the territories which are or may become vested in Her Majesty by the said Statute 21 & 22 Victoria, Chapter 106 entitled "An Act for the better government of India" * * * *

Government of India — **16** The words "Government of India" denote the Governor General of India in Council, or during the absence of the Governor General of India from his Council, the President in Council, or the Governor General of India alone, as regards the powers which may be lawfully exercised by them or him respectively

Government — **17** The word "Government" denotes the person or persons authorized by law to administer executive Government in any part of Marwar

Judge — **19** The word "Judge" denotes not only every person who is officially designated as a Judge, but also every person

who is empowered by law to give, in any legal proceeding, civil or criminal, a definitive judgment, or a judgment which, if not appealed against, would be definitive, or a judgment which, if confirmed by some other authority, would be definitive, or

who is one of a body of persons, which body of persons is empowered by law to give such a judgment.

Illustrations.

(a) A Magistrate exercising jurisdiction in respect of a charge on which he has power to sentence to fine or imprisonment with or without appeal, is a Judge

(b) A Magistrate exercising jurisdiction in respect of a charge on which he has power only to commit for trial to another Court, is not a Judge

20 The words "Court of Justice" denote a Judge who is empowered by law to act judicially alone, or a body of Judges which is empowered by law to act judicially as a body, when such Judge or body of Judges is acting judicially. "Court of Justice."

21. The words [1]"public servant" denote a person falling under any of the descriptions hereinafter following, namely — "Public servant."

(1) Every servant of the Durbar

(2) Every Commissioned Officer of the Durbar Forces while serving under the Marwar Durbar or under any other Government.

(3) Every Judge

Fourth—Every officer of a Court of Justice whose duty it is, as such officer, to investigate or report on any matter of law or fact, or to make, authenticate, or keep any document, or to take, charge or dispose of any property, or to execute any judicial process, or to administer any oath, or to interpret, or to preserve order in the Court, and every person specially authorized by a Court of Justice to perform any of such duties;

Sixth.—Every arbitrator or other person to whom any cause or matter has been referred for decision or report by any Court of Justice, or by any other competent public authority,

Seventh—Every person who holds any office by virtue of which he is empowered to place or keep any person in confinement,

Eighth.—Every officer of Government whose duty it is, as such officer, to prevent offences, to give information of offences, to bring offenders to justice or to protect the public health, safety or convenience,

Ninth.—Every officer whose duty it is, as such officer, to take, receive, keep or expend any property on behalf of Government, or to make any survey, assessment or contract on behalf of Government, or to excute any revenue-process, or to investigate, or to report, on any matter, affecting the pecuniary interests of Government, or to make, authenticate or keep any document relating to the pecuniary interests of Government or to prevent the infraction of any law for the protection of the pecuniary interests of Government, and every officer in the service or pay of Government or remunerated by fees or commission for the performance of any public duty,

Tenth.—Every officer whose duty it is, as such officer to take, receive, keep expend any property, to make any survey or assessment or to levy any rate or tax for any secular common purpose of any village, town or district, or to make, authenticate or keep any document for the ascertaining of the rights of the people of any village, town or district.

Explanation.—Wherever the words "public servant" occur, they shall be understood of every person who is in actul possession of the situation of a public servant, whatever legal defect there may be in his right to hold that situation.

"Moveable property"

22. The words "moveable property" are intended to include corporeal property of every description, except land and things attached to the earth or permanently fastened to anything which is attached to the earth.

"Wrongful gain."

23 "Wrongful gain" is gain by unlawful means of property to which the person gaining is not legally, entitled.

"Wrongful loss"

"Wrongful loss" is the loss by unlawful means of property to which the person losing it is legally entitled.

A person is said to gain wrongfully when such person retains wrongfully, as well as when such person acquires wrongfully. A person is said to lose wrongfully when such person is wrongfully kept out of any property, as well as when such person is wrongfully deprived of property. Gaining wrongfully. Losing wrongfully.

24 Whoever does anything with the intention of causing wrongful gain to one person or wrongful loss to another person, is said to do that thing "dishonestly." "Dishonestly."

25 A person is said to do a thing fraudulently if he does that thing with intent to defraud but not otherwise. "Fraudulently."

26 A person is said to have "reason to believe" a thing if he has sufficient cause to believe that thing but not otherwise. "Reason to believe."

27 When property is in the possession of a person's wife, clerk or servant, on account of that person, it is in that person's possession within the meaning of this Code. Property in possession of wife, clerk or servant.

Explanation.—A person employed temporarily or on a particular occasion in the capacity of a clerk or servant is a clerk or servant within the meaning of this section.

28 A person is said to "counterfeit" who causes one thing to resemble another thing, intending by means of that resemblance to practise deception, or knowing it to be likely that deception will thereby be practised. "Counterfeit."

Explanation 1.—It is not essential to counterfeiting that the imitation should be exact.

Explanation 2.—When a person causes one thing to resemble another thing, and the resemblance is such that a person might be deceived thereby, it shall be presumed, until the contrary is proved, that the person so causing the one thing to resemble the other thing intended by means of that resemblance to practise deception or knew it to be likely that deception would thereby be practised.

29 The word "document" denotes any matter expressed or described upon any substance by means of "Document."

letters, figures or marks, or by more than one of those means, intended to be used, or which may be used, as evidence of that matter

Explanation 1—It is immaterial by what means or upon what substance the letters, figures or marks are formed, or whether the evidence is intended for, or may be used in, a Court of Justice, or not

Illustration

A writing expressing the terms of a contract, which may be used as evidence of the contract, is a document

A cheque upon a banker is a document

A power of attorney is a document

A map or plan which is intended to be used or which may be used as evidence, is a document

A writing containing directions or instructions is a document

Explanation 2—Whatever is expressed by means of letters figures or marks as explained by mercantile or other usage, shall be deemed to be expressed by such letters, figures or marks within the meaning of this section, although the same may not be actually expressed

Illustration

A writes his name on the back of a bill of exchange payable to his order The meaning of the endorsement as explained by mercantile usage, is that the bill is to be paid to the holder The endorsement is a document and must be construed in the same manner as if the words "pay the holder or words to that effect had been written over the signature

"Valuable security"

30 The words "valuable security" denote a document which is, or purports to be, a document whereby any legal right is created, extended, transferred, restricted, extinguished or released, or whereby any person acknowledges that he lies under legal liability, or has not a certain legal right

Illustration

A writes his name on the back of a bill of exchange As the effect of this endorsement is to transfer the right to the bill to any person who may become the lawful holder of it the endorsement is a "valuable security

31 The words "a will" denote any testamentary document. "A will"

32 In every part of this Code, except where a contrary intention appears from the context, words which refer to acts done extend also to illegal omissions. Words referring to acts include illegal omissions

33 The word "act" denotes as well a series of acts as a single act: the word "omission" denotes as well a series of omissions as a single omission. Act. "Omission"

34 When a criminal act is done by several persons, *in furtherance of the common intention of all*, each of such persons is liable for that act in the same manner as if it were done by him alone. Acts done by several persons in furtherance of common intention

35 Whenever an act, which is criminal only by reason of its being done with a criminal knowledge or intention, is done by several persons, each of such persons who joins in the act with such knowledge or intention is liable for the act in the same manner as if the act were done by him alone with that knowledge or intention. When such an act is criminal by reason of its being done with a criminal knowledge or intention

36 Wherever the causing of a certain effect, or an attempt to cause that effect, by an act or by an omission, is an offence, it is to be understood that the causing of that effect partly by an act and partly by an omission is the same offence. Effect caused partly by act and partly by omission

Illustration

A intentionally causes Z's death, partly by illegally omitting to give Z food and partly by beating Z. A has committed murder.

37 When an offence is committed by means of several acts, whoever intentionally co-operates in the commission of that offence by doing any one of those acts, either singly or jointly with any other person, commits that offence. Co-operation by doing one of several acts constituting an offence

Illustrations.

(a) A and B agree to murder Z by severally and at different times giving him small doses of poison. A and B administer the poison according to the agreement with intent to murder Z. Z dies

from the effects of the several doses of poison so administered to him Here A and B intentionally co-operate in the commission of murder, and as each of them does an act by which the death is caused, they are both guilty of the offence though their acts are separate

(b) A and B are joint jailors and, as such, have the charge of Z a prisoner, alternately for six hours at a time A and B, intending to cause Z s death, knowingly co operate in causing that effect by illegally omitting, each during the time of his attendance, to furnish Z with food supplied to them for that purpose Z dies of hunger Both A and B are guilty of the murder of Z

(c) A, a jailor, has the charge of Z, a prisoner A, intending to cause Z s death, illegally omits to supply Z with food in consequence of which Z is much reduced in strength, but the starvation is not sufficient to cause his death A is dismissed from his office and B succeeds him B, without collusion or co operation with A, illegally omits to supply Z with food, knowing that he is likely thereby to cause Z s death Z dies of hunger B is guilty of murder, but, as A did not co operate with B, A is guilty only of an attempt to commit murder.

Persons concerned in criminal act may be guilty of different offences

38. Where several persons are engaged or concerned in the commission of a criminal act, they may be guilty of different offences by means of that act.

Illustration

A attacks Z under such circumstances of grave provocation that his killing of Z would be only culpable homicide not amounting to murder B having ill will towards Z and intending to kill him and not having been subject to the provocation, assists A in killing Z Here, though A and B are both engaged in causing Z's death, B is guilty of murder, and A is guilty only of culpable homicide

Voluntarily.

39. A person is said to cause an effect "voluntarily" when he causes it by means whereby he intended to cause it, or by means which, at the time of employing those means, he knew or had reason to believe to be likely to cause it

Illustration

A sets fire by night, to an inhabited house in a large town for the purpose of facilitating robbery, and thus causes the death of a person Here, A may not have intended to cause death, and may even be sorry that death has been caused by his act yet, if he knew that he was likely to cause death, he has caused death voluntarily

40 Except in the chapter and sections mentioned in clauses 2 and 3 of this section, the word "offence" denotes a thing made punishable by this Code. "Offence"

In Chapter IV and in the following sections, namely, sections 64, 65, 66, 67, 71, 109, 110, 112, 114, 115, 116, 117, 187, 194, 195, 203, 211, 213, 214, 221, 222, 223, 224, 225, 327, 328, 329, 330, 331, 347, 348, 388, 389 and 445, the word "offence" denotes a thing punishable under this Code, or under any special or local law as hereinafter defined.

And in sections 141, 176, 177, 201, 202, 212, 216 and 441 the word "offence" has the same meaning when the thing punishable under the special or local law is punishable under such law with imprisonment for a term of six months or upwards, whether with or without fine.

43. The word "illegal" is applicable to everything which is an offence or which is prohibited by law or which furnishes ground for a civil action: and a person is said to be "legally bound to do" whatever it is illegal in him to omit "Illegal." "Legally bound to do."

44. The word "injury" denotes any harm whatever illegally caused to any person, in body, mind, reputation or property "Injury."

45 The word "life" denotes the life of a human being, unless the contrary appears from the context. "Life."

46. The word "death" denotes the death of a human being, unless the contray appears from the context. "Death."

47. The word "animal" denotes any living creature, other than a human being. "Animal."

48. The word "vessel" denotes anything made for the conveyance by water of human beings or of property. "Vessel"

49. Wherever the word "year" or the word "month" is used, it is to be understood that the year or the month is to be reckoned according to the British calendar. "Year." "Month."

50. The word "section" denotes one of those portions of a chapter of this Code which are distinguished by prefixed numeral figures. "Section."

"Oath"

51. The word "oath" includes a solemn affirmation substituted by law for an oath, and any declaration required or authorized by law to be made before a public servant or to be used for the purpose of proof, whether in a Court of Justice or not.

"Good faith"

52 Nothing is said to be done or believed in good faith which is done or believed without due care and attention.

CHAPTER III

Of Punishments.

(53) The punishments to which offenders are liable under the provisions of this Code, are.

(1) Death.

(2) Rigorous imprisonment

(3) Simple imprisonment

(4) Forfeiture of property

(5) Fine

Sentence may be (in certain cases** of imprisonment) wholly or partly rigorous or simple

60. In every case in which an offender is punishable with imprisoment which may be of either description, it shall be competent to the Court which sentences such offender to direct in the sentence that such imprisonment shall be wholly rigorous, or that such imprisonment shall be wholly simple, or that any part of such imprisonment shall be rigorous and the rest simple

Sentence of forfeiture of property

61 In every case in which a person is convicted of an offence for which he is liable to forfeiture of all his property, the offender shall be incapable of acquiring any property except for the benefit of Government until he shall have undergone the punishment awarded, or the punishment to which it shall have been commuted, or until he shall have been pardoned

Illustration

A being convicted of waging war against the Government, is liable to forfeiture of all his property After the sentence, and whilst the same is in force, A's father dies, leaving an estate which, but for the forfeiture, would become the property of A The estate becomes the property of Government

Amount of fine

63 Where no sum is expressed to which a fine may extend, the amount of fine to which the offender is liable is unlimited, but shall not be excessive

Sentence of imprisonment for non payment of fine

64 In every case of an offence punishable with imprisonment as well as fine, in which the offender is sentenced to a fine, whether with or without imprisonment,

and in every case of an offence punishable [with imprisonment or fine, or] with fine only, in which the offender is sentenced to a fine,

it shall be competent to the Court which sentences such offender to direct by the sentence that, in default of payment of the fine, the offender shall suffer imprisonment for a certain term, which imprisonment shall be in excess of any other imprisoment to which he may have been sentenced or to which he may be liable under a commutation of a sentence.

Limit to imprisonment for non payment of fine, when imprisonment and fine awardable

65 The term for which the Court directs the offender to be imprisoned in default of payment of a fine shall not exceed one-fourth of the term of imprisonment which is the maximum fixed for the offence, if the offence be punishable with imprisonment as well as fine.

Description of imprisonment for non payment of fine

66 The imprisonment which the Court imposes in default of payment of a fine may be of any description to which the offender might have been sentenced for the offence.

Imprisonment for non payment of fine when offence punishable with fine only

67. If the offence be punishable with fine only, [the imprisonment which the Court imposes in default of payment of the fine shall be simple, and] the term for which the Court directs the offender to be imprisoned, in default of payment of fine, shall not exceed the following scale, that is to say, [for any term not exceeding two months when the amount of the fine shall not exceed fifty rupees, and for any term not exceeding four months when the amount shall not exceed one hundred rupees, and for any term not exceeding six months in any other case.]

Imprisonment to terminate on payment of fine

68 The imprisonment which is imposed in default of payment of a fine shall terminate whenever that fine is either paid or levied by process of law.

Termination of imprisonment on payment of proportional part of fine

69. If, before the expiration of the term of imprisonment fixed in default of payment, such a proportion of the fine be paid or levied that the term of imprisonment suffered in default of payment is not less than proportional to the part of the fine still unpaid, the imprisonment shall terminate

Illustration

A is sentenced to a fine of one hundred rupees and to four months imprisonment in default of payment Here, if seventy-five rupees of the fine be paid or levied before the expiration of one month of the imprisonment, A will be discharged as soon as the first month has expired If seventy-five rupees be paid or levied at the time of the expiration of the first month, or at any later time while A continues in imprisonment, A will be immediately discharged If fifty rupees of the fine be paid or levied before the expiration of two months of the imprisonment, A will be discharged as soon as two months are completed If fifty rupees be paid or levied at the time of the expiration of those two months, or at any later time while A continues in imprisonment, A will be immediately discharged

Limit of punishment of offence made up of several offences

71 Where anything which is an offence is made up of parts, any of which parts is itself an offence, the offender shall not be punished with the punishment of more than one of such his offences, unless it be so expressly provided

[Where anything is an offence falling within two or more separate definitions of any law in force for the time being by which offences are defined or punished, or

where several acts, of which one or more than one would by itself or themselves constitute an offence, constitute, when combined, a different offence

the offender shall not be punished with a more severe punishment than the Court which tries him could award for any one of such offences]

Illustrations

(a) A gives Z fifty strokes with a stick Here A may have committed the offence of voluntarily causing hurt to Z by the whole beat

ing, and also by each of the blows which make up the whole beating. If A were liable to punishment for every blow, he might be imprisoned for fifty years, one for each blow But he is liable only to one punishment for the whole beating.

(*b*) But if, while A is beating Z, Y interferes and A intentionally strikes Y, here, as the blow given to Y is no part of the act whereby A voluntarily causes hurt to Z, A is liable to one punishment for voluntarily causing hurt to Z, and to another for the blow given to Y.

72 In all cases in which judgment is given that a person is guilty of one of several offences specified in the judgment, but that it is doubtful of which of these offences he is guilty, the offender shall be punished for the offence for which the lowest punishment is provided if the same *punishment is not provided for all,* Punishment of person guilty of one of several offences in the judgment stating that it is doubtful of which

73 Whenever any person is convicted of an offence for which under this Code the Court has power to sentence him to rigorous imprisonment, the Court may, by its sentence, order that the offender shall be kept in solitary confinement for any portion or portions of the imprisonment to which he is sentenced not exceeding three months in the whole, according to the following scale, that is to say— Solitary confinement

a time not exceeding one month if the term of imprisonment shall not exceed six months

a time not exceeding two months if the term of imprisonment shall exceed six months and shall not exceed one year

a time not exceeding three months if the term of imprisonment shall exceed one year

74. In executing a sentence of solitary confinement, such confinement shall in no case exceed fourteen days at a time, with intervals between the periods of solitary confinement of not less duration than such periods, and when the imprisonment awarded shall exceed three months, the solitary confinement shall not exceed seven days in any one month of the whole imprisonment awarded, with intervals between the periods of solitary confinement of not less duration than such periods. Limit of solitary confinement.

Enhanced punishment for certain offences under Chapter XII or Chapter XVII after previous conviction

75 Whoever having been convicted (1) By a Court in Marwar of an offence punishable under Chapter XII or Chapter XVII of this Code with imprisonment of either description for a term of three years or upwards or (2) By a Court in British India or by a Court or tribunal of any Native Prince or State in India shall be guilty of any offence punishable under either of those Chapters with like imprisonment for the like term, shall be subject for every such subsequent offence to imprisonment for life

CHAPTER IV

General Exceptions

Act done by a person bound or by mistake of fact believing himself bound by law

76 Nothing is an offence which is done by a person who is or who by reason of mistake of fact and not by reason of a mistake of law in good faith believes himself to be, bound by law to do it

Illustrations

(a) A a soldier fires on a mob by the order of his superior officer in conformity with the commands of the law A has committed no offence

(b) A an officer of a Court of Justice being ordered by that Court to arrest Y and after due enquiry believing Z to be Y arrests Z A has committed no offence

Act of Judge when acting judicially

77 Nothing is an offence which is done by a Judge when acting judicially in the exercise of any power which is, or which in good faith he believes to be, given to him by law

Act done pursuant to the judgment or order of Court

78 Nothing which is done in pursuance of, or which is warranted by the judgment or order of, a Court of Justice, if done whilst such judgment or order remains in force, is an offence notwithstanding the Court may have had no jurisdiction to pass such judgment or order, provided the person doing the act in good faith believes that the Court had such jurisdiction

Act done by a person justified or by mistake of fact believing himself justified by law

79 Nothing is an offence which is done by any person who is justified by law, or who by reason of a mistake of fact and not by reason of a mistake of law in good faith believes himself to be justified by law in doing it

Illustration

A sees Z commit what appears to A to be a murder A, in the exercise, to the best of his judgment exerted in good faith of the power which the law gives to all persons of apprehending murderers in the fact, seizes Z, in order to bring Z before the proper authorities A has committed no offence, though it may turn out that Z was acting in self defence

80 Nothing is an offence which is done by accident or misfortune, and without any criminal intention or knowledge in the doing of a lawful act in a lawful manner by lawful means and with proper care and caution — Accident in doing a lawful act

Illustration

A is at a work with a hatchet, the head flies off and kills a man who is standing by Here, if there was no want of proper caution on the part of A, his act is excusable and not an offence

81. Nothing is an offence merely by reason of its being done with the knowledge that it is likely to cause harm, if it be done without any criminal intention to cause harm, and in good faith for the purpose of preventing or avoiding other harm to person or property — Act likely to cause harm, but done without criminal intent and to prevent other harm

Explanation —It is a question of fact in such a case whether the harm to be prevented or avoided was of such a nature and so imminent as to justify or excuse the risk of doing the act with the knowledge that it was likely to cause harm

Illustrations

(a) A, the captain of a steam-vessel, suddenly and without any fault or negligence on his part, finds himself in such a position that, before he can stop his vessel, he must inevitably run down a boat B with twenty or thirty passengers on board, unless he changes the course of his vessel and that, by changing his course, he must incur risk of running down a boat C with only two passengers on board, which he may possibly clear Here, if A alters his course without any intention to run down the boat C and in good faith for the purpose of avoiding the danger to the passengers in the boat B, he is not guilty of an offence, though he may run down the boat C by doing an act which he knew was likely to cause that effect if it be found as a matter of fact that the danger which he intended to avoid was such as to excuse him in incurring the risk of running down C

(b) A in a great fire, pulls down houses in order to prevent the conflagration from spreading He does this with the intention in

good faith of saving human life or property Here, if it be found that the harm to be prevented was of such a nature and so imminent as to excuse A s act A is not guilty of the offence

Act of a child under seven years of age

82 Nothing is an offence which is done by a child under seven years of age

Act of a child above seven and under twelve of immature understanding

83 Nothing is an offence which is done by a child above seven years of age and under twelve, who has not attained sufficient maturity of understanding to judge of the nature and consequences of his conduct on that occasion

Act of a person of unsound mind

84. Nothing is an offence which is done by a person who, at the time of doing it, by reason of unsoundness of mind, is incapable of knowing the nature of the act, or that he is doing what is either wrong or contrary to law

Act of a person incapable of judgment by reason of intoxication caused against his will

85 Nothing is an offence which is done by a person who, at the time of doing it, is, by reason of intoxication, incapable of knowing the nature of the act, or that he is doing what is either wrong, or contrary to law provided that the thing which intoxicated him was administered to him without his knowledge or against his will.

Offence requiring a particular intent or knowledge committed by one who is intoxicated

86 In cases where an act done is not an offence unless done with a particular knowledge or intent, a person who does the act in a state of intoxication shall be liable to be dealt with as if he had the same knowledge as he would have had if he had not been intoxicated unless the thing which intoxicated him was administered to him without his knowledge or against his will

Act not intended and not known to be likely to cause death or grievous hurt done by consent

87. Nothing which is not intended to cause death, or grievous hurt, and which is not known by the doer to be likely to cause death, or grievous hurt, is an offence by reason of any harm which it may cause, or be intended by the doer to cause, to any persons, above eighteen years of age, who has given consent, whether express or implied, to suffer that harm, or by reason of any harm which it may be known by the doer to be likely to cause to any such person who has consented to take the risk of that harm.

Illustration

A and Z agree to fence with each other for amusement This agreement implies the consent of each to suffer any harm which, in the course of such fencing, may be caused without foul play, and if A, while playing fairly, hurts Z, A commits no offence

88 Nothing, which is not intended to cause death, is an offence by reason of any harm, which it may cause, or be intended by the doer to cause, or be known by the doer to be likely to cause, to any person for whose benefit it is done in good faith, and who has given a consent, whether express or implied, to suffer that harm, or to take the risk of that harm

Act not intended to cause death done by consent in good faith for person's benefit

Illustration

A, a surgeon knowing that a particular operation is likely to cause the death of Z who suffers under a painful complaint, but not intending to cause Z's death and intending in good faith Z's benefit, performs that operation on Z, with Z's consent A has committed no offence

89 Nothing which is done in good faith for the benefit of a person under twelve years of age, or of unsound mind, by or by consent, either express or implied, of the guardian or other person having lawful charge of that person, is an offence by reason of any harm which it may cause, or be intended by the doer to cause or be known by the doer to be likely to cause to that person Provided—

Act done in good faith for benefit of child or insane person by or by consent of guardian

Provisos

First—That this exception shall not extend to the intentional causing of death, or to the attempting to cause death ,

Secondly—That this exception shall not extend to the doing of anything which the person doing it knows to be likely to cause death, for any purpose other than the preventing of death or grievous hurt , or the curing of any grievous disease or infirmity,

Thirdly—That this exception shall not extend to the voluntary causing of grievous hurt or to the attempting to cause grievous hurt, unless it be for the purpose of preventing death or grievous hurt, or the curing of any grievous disease or infirmity ,

Fourthly —That this exception shall not extend to the abetment of any offence, to the committing of which offence it would not extend

Illustration

A in good faith for his child s benefit without his child s consent, has his child cut for the stone by a surgeon, knowing it to be likely that the operation will cause the child s death, but not intending to cause the child s death A is within the exception inasmuch as his object was the cure of the child

Consent known to be given under fear or misconception

90 A consent is not such a consent as is intended by any section of this Code, if the consent is given by a person under fear of injury, or under a misconception of fact, and if the person doing the act knows, or has reason to believe, that the consent was given in consequence of such fear or misconception , or

Consent of insane person

if the consent is given by a person who, from unsoundness of mind, or intoxication, is unable to understand the nature and consequence of that to which he gives his consent , or

Consent of child

unless the contrary appears from the context, if the consent is given by a person who is under twelve years of age

Exclusion of acts which are offences independently of harm caused

91 The exceptions in sections 87 and 88 and 89 do not extend to acts which are offences independently of any harm which they may cause, or be intended to cause or be known to be likely to cause, to the person giving *the consent, or on whose behalf the consent is given*

Illustration

Causing miscarriage (unless caused in good faith for the purpose of saving the life of the woman) is an offence independently of any harm which it may cause or be intended to cause to the woman There fore it is not an offence ' by reason of such harm ; and the consent of the woman or of her guardian to the causing of such miscarriage does not justify the act

Act done in good faith for benefit of a person without consent.

92 Nothing is an offence by reason of any harm which it may cause to a person for whose benefit it is done in good faith, even without that person's consent, if the circumstances are such that it is im-

possible for that person to signify consent, or if that person is incapable of giving consent, and has no guardian or other person in lawful charge of him from whom it is possible to obtain consent in time for the thing to be done with benefit. Provided—

First.—That this exception shall not extend to the intentional causing of death, or the attempting to cause death; Provisos.

Secondly—That this exception shall not extend to the doing of anything which the person doing it knows to be likely to cause death, for any purpose other than the preventing of death or grievous hurt or the curing of any grievous disease or infirmity,

Thirdly.—That this exception shall not extend to the voluntary causing of hurt, or to the attempting to cause hurt, for any purpose other than the preventing of death or hurt,

Fourthly.—That this exception shall not extend to the abetment of any offence, to the committing of which offence it would not extend.

Illustrations.

(a) Z is thrown from his horse and is insensible. A a surgeon, finds that Z requires to be trepanned A, not intending Z s death, but in good faith, for Z s benefit, performs the trepan before Z recovers his power of judging for himself A has committed no offence

(b) Z is carried off by a tiger A fires at the tiger, knowing it to be likely that the shot may kill Z, but not intending to kill Z, and in good faith intending Z s benefit A's ball gives Z a mortal wound A has committed no offence

(c) A, a surgeon, sees a child suffer an accident which is likely to prove fatal unless an operation be immediately performed There is not time to apply to the child s guardian A performs the operation in spite of the entreaties of the child intending in good faith, the child s benefit A has committed no offence

(d) A is in a house which is on fire with Z, a child People below hold out a blanket A drops the child from the housetop, knowing it to be likely that the fall may kill the child, but not intending to kill the child and intending, in good faith, the child s benefit Here, even if the child is killed by the fall A has committed no offence

Explanation—Mere pecuniary benefit is not benefit within the meaning of sections 88, 89 and 92

Communication made in good faith

93 No communication made in good faith is an offence by reason of any harm to the person to whom it is made, if it is made for the benefit of that person

Illustration

A, a surgeon, in good faith, communicates to a patient his opinion that he cannot live The patient dies in consequence of the shock A has committed no offence though he knew it to be likely that the communication might cause the patient s death

Act to which a person is compelled by threats

94 Except murder, and offences against the State punishable with death, nothing is an offence which is done by a person who is compelled to do it by threats which, at the time of doing it, reasonably cause the apprehension that instant death to that person will otherwise be the consequence Provided the person doing the act did not of his own accord, or from a reasonable apprehension of harm to himself short of instant death, place himself in the situation by which he became subject to such constraint

Explanation 1—A person who, of his own accord, or by reason of a threat of being beaten, joins a gang of dacoits, knowing their character, is not entitled to the benefit of this exception, on the ground of his having been compelled by his associates to do anything that is an offence by law.

Explanation 2—A person seized by a gang of dacoits, and forced by threat of instant death, to do a thing which is an offence by law for example, a smith compelled to take his tools and to force the door of a house for the dacoits to enter and plunder it, is entitled to the benefit of this exception.

Act causing slight harm.

95 Nothing is an offence by reason that it causes, or that it is intended to cause, or that it is known to be likely to cause, any harm, if that harm is so slight that no person of ordinary sense and temper would complain of such harm

96 Nothing is an offence which is done in the exercise of the right of private defence. Things done in private defence.

97. Every person has a right, subject to the restrictions contained in section 99, to defend— Right of private defence of the body and of property.

First—His own body, and the body of any other person, against any offence affecting the human body,

Secondly—The property, whether moveable or immoveable, of himself or of any other person, against any act which is an offence falling under the definition of theft, robbery, mischief or criminal trespass, or which is an attempt to commit theft, robbery, mischief or criminal trespass

98 When an act, which would otherwise be a certain offence is not that offence, by reason of the youth, the want of maturity of understanding, the unsoundness of mind, or the intoxication of the person doing that act or by reason of any misconception on the part of that person, every person has the same right of private defence against that act which he would have if the act were that offence Right of private defence against the act of a person of unsound mind etc

Illustrations

(a) Z, under the influence of madness, attempts to kill A, Z is guilty of no offence But A has the same right of private defence which he would have if Z were sane

(b) A enters by night a house which he is legally entitled to enter Z, in good faith taking A for a house breaker attacks A Here Z, by attacking A under this misconception commits no offence But A has the same right of private defence against Z, which he would have if Z were not acting under that misconception

99 There is no right of private defence against an act which does not reasonably cause the apprehension of death or of grievous hurt, if done, or attempted to be done by a public servant acting in good faith under colour of his office, though that act may not be strictly justifiable by law Acts against which there is no right of private defence

There is no right of private defence against an act which does not reasonably cause the apprehension of death or of grievouse hurt, if done, or attempted to be

done, by the direction of a public servant acting in good faith under colour of his office though that direction may not be strictly justifiable by law

There is no right of private defence in cases in which there is time to have recourse to the protection of the public authorities

Extent to which the right may be exercised

The right of private defence in no cases extends to the inflicting of more harm than it is necessary to inflict for the purpose of defence

Explanation I —A person is not deprived of the right of private defence against an act done, or attempted to be done, by a public servant as, such unless he knows, or has reason to believe, that the person doing the act is such public servant

Explanation 2 —A person is not deprived of the right of private defence against an act done, or attempted to be done, by the direction of a public servant unless he knows, or has reason to believe, that the person doing the act is acting by such direction, or unless such person states the authority under which he acts, or, if he has authority in writing, unless he produces such authority if demanded

When the right of private defence of the body extends to causing death

100 The right of private defence of the body extends under the restrictions mentioned in the last preceding section to the voluntary causing of death or of any other harm to the assailant, if the offence which occasions the exercise of the right be of any of the descriptions hereinafter enumerated, namely —

First —Such an assault as may reasonably cause the apprehension that death will otherwise be the consequence of such assault,

Secondly —Such an assault as may reasonably cause the apprehension that grievous hurt will otherwise be the consequence of such assault,

Thirdly —An assault with the intention of committing rape

Fourthly —An assault with the intention of gratifying unnatural lust,

Fifthly.—An assault with the intention of kidnapping or abducting;

Sixthly—An assault with the intention of wrongfully confining a person, under circumstances which may reasonably cause him to apprehend that he will be unable to have recourse to the public authorities for his release.

When such right extends to causing any harm other than death

101 If the offence be not of any of the descriptions enumerated in the last preceding section, the right of private defence of the body does not extend to the voluntary causing of death to the assailant, but does extend, under the restrictions mentioned in section 99, to the voluntary causing to the assailant of any harm other than death.

Commencement and continuance of the right of private defence of the body.

102 The right of private defence of the body commences as soon as a reasonable apprehension of danger to the body arises from an attempt or threat to commit the offence though the offence may not have been committed; and it continues as long as such apprehension of danger to the body continues

When the right of private defence of property extends to causing death

103. The right of private defence of property extends, under the restrictions mentioned in section 99 to the voluntary causing of death or of any other harm, to the wrong doer, if the offence, the committing of which, or the attempting to commit which, occasions the exercise of the right, be an offence of any of the descriptions hereinafter enumerated, namely —

First.—Robbery,

Secondly—House-breaking by night;

Thirdly—Mischief by fire committed on any building, tent or vessel, which building, tent or vessel is used as a human dwelling, or as a place for the custody of property,

Fourthly.—Theft, mischief or house-trespass, under such circumstances as may reasonably cause apprehension that death or grievous hurt will be the consequence, if such right of private defence is not exercised

When such right extends to causing any harm other than death

104 If the offence the committing of which, or the attempting to commit which, occasions the exercise of the right of private defence, be theft, mischief, or criminal trespass, not of any of the descriptions enumerated in the last preceding section, that right does not extend, to the voluntary causing of death, but does extend, subject to the restrictions mentioned in section 99, to the voluntary causing to the wrong-doer of any harm other than death

Commencement and continuance of the right of private defence of property

105 The right of private defence of property commences when a reasonable apprehension of danger to the property commences.

The right of private defence of property against theft continues till the offender has effected his retreat with the property or either the assistance of the public authorities is obtained, or the property has been recovered.

The right of private defence of property against robbery continues as long as the offender causes or attempts to cause to any person death or hurt or wrongful restraint or as long as the fear of instant death or of instant hurt or of instant personal restraint continues

The right of private defence of property against criminal trespass or mischief continues as long as the offender continues in the commission of criminal trespass or mischief.

The right of private defence of property against house-breaking by night continues as long as the house trespass which has been begun by such house-breaking continues.

Right of private defence against deadly assault when there is risk of harm to innocent person

106. If in the exercise of the right of private defence against an assault which reasonably causes the apprehension of death, the defender be so situated that he cannot effectually exercise that right without risk of harm to an innocent person, his right of private defence extends to the running of that risk.

Illustration.

A is attacked by a mob who attempt to murder him He cannot effectually exercise his right of private defence without firing on the mob, and he cannot fire without risk of harming young children who are mingled with the mob A commits no offence if by so firing he harms any of the children.

CHAPTER V

OF ABETMENT

107 A person abets the doing of a thing, who— Abetment of a thing

First—Instigates any person to do that thing, or,

Secondly—Engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes of place in pursuance of that conspiracy, and in order to the doing of that thing, or,

Thirdly—Intentionally aids, by any act or illegal omission, the doing of that thing

Explanation 1—A person who, by wilful misrepresentation, or by wilful concealment of a material fact which he is bound to disclose, voluntarily causes or procures, or attempts to cause or procure, a thing to be done, is said to instigate the doing of that thing

Illustration

A a public officer is authorized by a warrant from a Court of Justice to apprehend Z B knowing that fact and also that C is not Z wilfully represents to A that C is Z and thereby intentionally causes A to apprehend C Here B abets by instigation the apprehension of C

Explanation 2—Whoever either prior to or at the time of the commission of an act, does anything in order to facilitate the commission of that act, and thereby facilitates the commission thereof, is said to aid the doing of that act

108 A person abets an offence who abets either the commission of an offence, or the commission of an act which would be an offence if committed by a person capable by law of committing an offence with the same intention or knowledge as that of the abettor Abettor

Explanation 1—The abetment of the illegal omission of an act may amount to an offence although the abettor may not himself be bound to do that act

Explanation 2—To constitute the offence of abetment, it is not necessary that the act abetted should be committed, or that the effect requisite to constitute the offence should be caused

Illustrations

(*a*) A instigates B to murder C B refuses to do so A is guilty of abetting B to commit murder

(*b*) A instigates B to murder D B in pursuance of the instigation stabs D D recovers from the wound A is guilty of instigating B to commit murder

Explanation 3—It is not necessary that the person abetted should be capable by law of committing an offence, or that he should have the same guilty intention or knowledge as that of the abettor or any guilty intention or knowledge

Illustrations

(*a*) A with a guilty intention abets a child or a lunatic to commit an act which would be an offence if committed by a person capable by law of committing an offence and having the same intention as A Here A, whether the act be committed or not, is guilty of abetting an offence

(*b*) A, with the intention of murdering Z instigates B a child under seven years of age to do an act which causes Z s death B, in consequence of the abetment, does the act in the absence of A, and thereby cause Z s death Here though B was not capable by law of committing an offence A is liable to be punished in the same manner as if B had been capable by law of committing an offence, and had committed murder, and he is therefore subject to the punishment of death

(*c*) A instigates B to set fire to a dwelling house B, in consequence of the unsoundness of his mind being incapable of knowing the nature of the act, or that he is doing what is wrong or contrary to law, sets fire to the house in consequence of A s instigation B has committed no offence but A is guilty of abetting the offence of setting fire to a dwelling house, and is liable to the punishment provided for that offence

(*d*) A, intending to cause a theft to be committed instigates B to take property belonging to Z out of Z s possession A induces B to believe that the property belongs to A B takes the property out of Z s possession in good faith, believing it to be A s property B acting under this misconception does not take dishonestly, and therefore does not commit theft But A is guilty of abetting theft, and is liable to the same punishment as if B had committed theft

Explanation 4—The abetment of an offence being an offence, the abetment of such an abetment is also an offence

Illustration.

A instigates B to instigate C to murder Z. B accordingly instigates C to murder Z, and C commits that offence in consequence of B's instigation B is liable to be punished for his offence with the punishment for murder, and, as A instigated B to commit the offence A is also liable to the same punishment

Explanation 5.—It is not necessary to the commission of the offence of abetment by conspiracy that the abettor should concert the offence with the person who commits it It is sufficient if he engage in the conspiracy in pursuance of which the offence is committed

Illustration.

A concerts with B a plan for poisoning Z It is agreed that A shall administer the poison B then explains the plan to C, mentioning that a third person is to administer the poison, but without mentioning A s name C agrees to procure the poison and procures and delivers it to B for the purpose of its being used in the manner explained A administers the poison, Z dies in consequence Here though A and C have not conspired together yet C has been engaged in the conspiracy in pursuance of which Z has been murdered C has therefore committed the offence defined in this section and is liable to the punishment for murder

108A. A person abets an offence within the meaning of this Code who, in Marwar, abets the commission of any act without and beyond Marwar which would constitute an offence if committed in Marwar.

Illustration

A, in Marwar instigates B living in British India to commit a murder A is guilty of abetting murder

109 Whoever abets any offence shall, if the act abetted is committed in consequence of the abetment, and no express provision is made by this Code for the punishment of such abetment, be punished with the punishment provided for the offence

Punishment of abetment if the act abetted is committed in consequence and where no express provision is made for its punishment

Explanation—An act or offence is said to be committed in consequence of abetment, when it is committed in consequence of the instigation, or in pursuance of the conspiracy, or with the aid which constitutes the abetment.

Illustrations

(a) A offers a bribe to B, a public servant as a reward for showing A some favour in the exercise of B's official functions B accepts the bribe A has abetted the offence, defined in section 161.

(b) A instigates B to give false evidence B, in consequence of the instigation, commits that offence A is guilty of abetting that offence and is, liable to the same punishment as B.

(c) A and B conspire to poison Z A, in pursuance of the conspiracy, procures the poison and delivers it to B in order that he may administer it to Z. B, in pursuance of the conspiracy, administers the polsion to Z in A's absence and thereby causes Z's death Here B is guilty of murder A is guilty of abetting that offence by conspiracy, and is liable to the punishment for murder

Punishment of abetment if person abetted does act with different intention from that of abettor

110. Whoever abets the commission of an offence shall, if the person abetted does the act with a different intention or knowledge from that of the abettor, be punished with the punishment provided for the offence which would have been committed if the act had been done with the intention or knowledge of the abettor and with no other.

Liability of abettor when one act abetted and different act done Provis

111. When an act is abetted and a different act is done, the abettor is liable for the act done, in the same manner and to the same extent as if he had directly abetted it:

Provided the act done was a probable consequence of the abetment and was committed under the influence of the instigation, or with the aid or in pursuance of the conspiracy which constituted the abetment

Illustrations.

(a) A instigates a child to put poison into the food of Z, and gives him poison for that purpose The child, in consequence of the instigation, by mistake puts the poison into the food of Y, which is by the side of that of Z Here, if the child was acting under the influence of A's instigation, and the act done was under the circumstances a probable consequence of the abetment, A is liable in the same manner and to the same extent as if he had instigated the child to put the poison into the food of Y.

(b) A instigates B to burn Z's house B sets fire to the house and at the same time commits theft of property there A, though guilty of abetting the burning of the house, is not guilty of abetting the theft, for the theft was a distinct act, and not a probable consequence of the burning

(c) A instigates B and C to break into an inhabited house at midnight for the purpose of robbery, and provides them with arms for that purpose B and C break into the house, and being resisted by Z, one of the inmates murder Z Here if that murder was the probable consequence of the abetment, A is liable to the punishment provided for murder

112. If the act for which the abettor is liable under the last preceding section is committed in addition to the act abetted, and constitutes a distinct offence, the abettor is liable to punishment for each of the offences

Abettor when liable to cumulative punishment for act abetted and for act done

Illustration

A instigates B to resist by force a distress made by a public servant B in consequence resists that distress In offering the resistance, B, voluntarily causes grievous hurt to the officer executing the distress As B has committed both the offence of resisting the distress and the offence of voluntarily causing grievous hurt B is liable to punishment for both these offences, and, if A knew that B was likely voluntarily to cause grievous hurt in resisting the distress A will also be liable to punishment for each of the offences

113 When act is abetted with the intention on the part of the abettor of causing a particular effect, and an act for which the abettor is liable in consequence of the abetment, cause a different effect from that intended by the abettor, the abettor is liable for the effect caused, in the same manner and to the same extent as if he had abetted the act with the intention of causing that effect, provided he knew that the act abetted was likely to cause that effect

Liability of abettor for an effect caused by the act abetted different from that intended by the abettor

Illustration

A instigates B to cause grievous hurt to Z B, in consequence of the instigation, causes grievous hurt to Z Z dies in consequence Here, if A knew that the grievous hurt abetted was likely to cause death, A is liable to be punished with the punishment provided for murder

114 Whenever any person, who, if absent, would be liable to be punished as an abettor, is present when the act or offence for which he would be punishable in consequence of the abetment is committed, he shall be deemed to have committed such act or offence.

Abettor present when offence is committed

Abetment of offence punishable with death or transportation for life—if offence not committed ;

115. Whoever abets the commission of an offence punishable with death or transportation for life, shall, if that offence be not committed in consequence of the abetment, and no express provision is made by this Code for the punishment of such abetment, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine ;

If act causing harm be done in consequence

and if any act for which the abettor is liable in consequence of the abetment, and which causes hurt to any person, is done, the abettor shall be liable to imprisonment of either description for a term which may extend to fourteen years, and shall also be liable to fine,

Illustration

A instigates B to murder Z The offence is not committed If B had murdered Z, he would have been subject to the punishment of death or transportation for life Therefore A is liable to imprisonment for a term which may extend to seven years and also to a fine ; and, if any hurt be done to Z in consequence of the abetment, he will be liable to imprisonment for a term which may extend to fourteen years, and to fine

Abetment of offence punishable with imprisonment—if offence be not committed

116. Whoever abets an offence punishable with imprisonment shall, if that offence be not committed in consequence of the abetment, and no express provision is made by this Code for the punishment of such abetment, be punished with imprisonment of any description provided for that offence for a term which may extend to one-fourth part of the longest term provided for that offence or with such fine as is provided for that offence, or with both ;

If abettor or person abetted be a public servant whose duty it is to prevent offence.

and if the abettor or the person abetted is a public servant, whose duty it is to prevent the commission of such offence, the abettor shall be punished with imprisonment of any description provided for that offence, for a term which may extend to one-half of the longest term provided for that offence, or with such fine as is provided for the offence, or with both.

Illustrations

(*a*) A offers a bribe to B a public servant, as a reward for showing A some favour in the exercise of B s official functions B refuses to accept the bribe A is punishable under this section

(*b*) A instigates B to give false evidence Here, if B does not give false evidence, A has nevertheless committed the offence defined in this section, and is punishable accordingly.

(*c*) A, a police-officer, whose duty it is to prevent robbery, abets the commission of robbery Here though the robbery be not committed, A is liable to one half of the longest term of imprisonment provided for that offence and also to fine

(*d*) B abets the commission of a robbery by A, a police officer whose duty it is to prevent that offence Here, though the robbery be not committed B is liable to one-half of the longest term of imprisonment provided for the offence of robbery and also to fine

117 Whoever abets the commission of an offence by the public generally or by any number or class of persons exceeding ten, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both

Abetting commission of offence by the public or by more than ten persons.

Illustration

A affixes in a public place a placard instigating a sect consisting of more than ten members to meet at a certain time and place, for the purpose of attacking the members of an adverse sect while engaged in a procession A has committed the offence defined in this section

118 Whoever intending to facilitate or knowing it to be likely that he will thereby facilitate the commission of an offence punishable with death or transportation for life,

Concealing design to commit offence punishable with death or transportation for life—

voluntarily conceals, by any act or illegal omission, the existence of a design to commit such offence or makes any representation which he knows to be false respecting such design,

shall, if that offence be committed, be punished with imprisonment of either description for a term which may extend to seven years, or, if the offence be not committed, with imprisonment of either description for a term which may extend to three years, and in either case shall also be liable to fine.

if offence be committed

if offence be not committed.

Illustration

A, knowing that dacoity is about to be committed at B, falsely informs the Magistrate that a dacoity is about to be committed at C, a place in an opposite direction, and thereby misleads the Magistrate with intent to facilitate the commission of the offence The dacoity is committed at B in pursuance of the design A is punishable under this section

Public servant concealing design to commit offence which it is his duty to prevent—

119 Whoever, being a public servant intending to facilitate or knowing it to be likely that he will thereby facilitate the commission of an offence which it is his duty as such public servant to prevent,

voluntarily conceals, by any act or illegal omission, the existence of a design to commit such offence, or makes any representation which he knows to be false respecting such design,

If offence be committed,

shall, if the offence be committed, be punished with imprisonment of any description provided for the offence, for a term which may extend to one half of the longest term of such imprisonment, or with such fine as is provided for that offence, or with both,

If offence be punishable with death, etc

or if the offence be punishable with death or transportation for life, with imprisonment of either description for a term which may extend to ten years,

If offence be not committed

or, if the offence be not committed, shall be punished with imprisonment of any description provided for the offence for a term which may extend to one fourth part of the longest term of such imprisonment or with such fine as is provided for the offence, or with both

Illustration

A, an officer of police being legally bound to give information of all designs to commit robbery which may come to his knowledge, and knowing that B designs to commit robbery, omits to give such information with intent to facilitate the commission of that offence Here A has by an illegal omission concealed the existence of B's design, and is liable to punishment according to the provision of this section

Concealing design to commit offence punishable with imprisonment—

120 Whoever, intending to facilitate or knowing it to be likely that he will thereby facilitate the commission of an offence punishable with imprisonment,

voluntarily conceals, by any act or illegal omission, the existence of a design to commit such offence, or makes

any representation which he knows to be false respecting such design,

shall, if the offence be committed, be punished with imprisonment of the description provided for the offence, for a term which may extend to one-fourth, and, if the offence be not committed, to one-eighth, of the longest term of such imprisonment, or with such fine as is provided for the offence, or with both

If offence be committed,

If offence be not committed

CHAPTER VI.

Of offences against the State.

121 Whoever wages war against the King or against the Ruler of Marwar, or attempts to wage such war or abets the waging of such war shall, be punished with death or imprisonment for life and shall forfeit all his property

Illustrations

(a) A joins an insurrection against the King A has committed the offence defined in this section

(b) A in India abets an insurrection against the King's Government of Ceylon by sending arms to the insurgents A is guilty of abetting the waging of war against the King.

[1]121A Whoever within or without British India conspires to commit any of the offences punishable by section 121, or to deprive the King of the sovereignty of British India or of any part thereof, or conspires to overawe, by means of criminal force or the show of criminal force, the Government of India or any Local Government or the Government of Marwar shall be punished with imprisonment for life or for such shorter term as the Chief Court may award.

Conspiracy to commit offences punishable by section 121

Explanation —To constitute a conspiracy under this section, it is not necessary that any act or illegal omission shall take place in pursuance thereof,

122 Whoever collects men, arms or ammunition or otherwise prepares to wage war with the intention of either waging or being prepared to wage war against the King or the Government of Marwar shall be liable to imprisonment for life and shall also forfeit all his property.

Collecting arms, etc, with intention of waging war

Concealing with intent to facilitate design to wage war

123 Whoever by any act, or by any illegal omission, conceals the existence of a design to wage war against the King or the Government of Marwar intending by such concealment to facilitate, or knowing it to be likely that such concealment will facilitate, the waging of such war shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine

Assaulting Governor General Governor etc with intent to compel or restrain the exercise of any lawful power

124 Whoever, with the intention of inducing or compelling the Governor General of India, or the Governor of any Presidency, or a Lieutenant-Governor, or a Member of the Council of the Governor General of India, or of the Council of any presidency, to exercise or refrain from exercising in any manner any of the lawful powers of such Governor General, Governor, Lieutenant-Governor or Member of Council, or Member of Marwar Darbar,

assaults or wrongfully restrains, or attempts wrongfully to restrain, or overawes, by means of criminal force or the show of criminal force, or attempts so to overawe, such Governor General, Governor, Lieutenant-Governor or Member of Council, or Member of Marwar Darbar.

shall be punished with imprisonment of either description for a term which may extend to seven years and shall also be liable to fine

Sedition

'124A Whoever by words, either spoken or written, or by signs, or by visible representation, or otherwise, brings or attempts to bring into hatred or contempt, or excites or attempts to excite disaffection towards, Her Majesty or the Government established by law in British India, or the Government of Marwar shall be liable to imprisonment for life, and to forfeit all his property

Explanation 1—The expression "disaffection" includes disloyalty and all feelings of enmity.

Explanation 2—Comments expressing disapprobation of the measures of the Government with a view to obtain their alteration by lawful means, without exciting or attempting to excite hatred, contempt or disaffection, do not constitute an offence under this section.

Explanation 3.—Comments expressing disapprobation of the administrative or other action of the Government without exciting or attempting to excite hatred contempt or disaffection, do not constitute an offence under this section.

127. Whoever receives any property knowing the same to have been taken in the commission of any of the offences mentioned in section 125 and 126, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine and to forfeiture of the property so received.

Receiving property taken by war or depredation mentioned in sections 125 and 126.

128. Whoever, being a public servant and having the custody of any State prisoner or prisoner of war, voluntarily allows such prisoner to escape from any place in which such prisoner is confined, shall be punished with transportation for life, or imprisonment of either description for a term which may extend to ten years and shall also be liable to fine.

Public servant voluntarily allowing prisoner of State or war to escape

129. Whoever, being a public servant and having the custody of any State prisoner or prisoner of war, negligently suffers such prisoner to escape from any place of confinement in which such prisoner is confined, shall be punished with simple imprisonment for a term which may extend to three years, and shall also be liable to fine.

Public servant negligently suffering such prisoner to escape.

130. Whoever knowingly aids or assists any State prisoner or prisoner of war in escaping from lawful custody, or rescues or attempts to rescue any such prisoner, or harbours or conceals any such prisoner who has escaped from lawful custody, or offers or attempts to offer any resistance to the recapture of such prisoner, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Aiding escape of, rescuing or harbouring, such prisoner

Explanation.—A State prisoner or prisoner of war, who is permitted to be at large on his parole within certain limits in British India, is said to escape from lawful custody if he goes beyond the limits within which he is allowed to be at large.

Note—Offences under Chapter VI are triable exclusively by the Chief Court.

Defendants are not bailable and not compoundable Offences under Sections 121, 121A, require sanction for prosecution by the Darbar and a warrant to arrest should issue.

CHAPTER VII.

This Chapter is omitted. It is to be remembered that the Imperial Service troops are liable to Indian Articles of War, and in case of necessity Chapter VII of Indian Penal Code may be referred to Such offences however would be triable exclusively by the Chief Court.

CHAPTER VIII.

OF OFFENCES AGAINST THE PUBLIC TRANQUILLITY.

Unlawful assembly.

141. An assembly of five or more persons is designated an "unlawful assembly," if the common object of the persons composing that assembly is—

First—To overawe by criminal force, or show of criminal force, the Legislative or Executive Government of India, or the Government of any Presidency, or any Lieutenant Governor, or any public servant in the exercise of the lawful power of such public servant, or Government of Marwar;

Second.—To resist the execution of any law, or of any legal process, or

Third.—To commit any mischief or criminal trespass, or other offence; or

Fourth—By means of criminal force, or show of criminal force, to any person, to take or obtain possession of any property, or to deprive any person of the enjoyment of a right of way, or of the use of water or other incorporeal right of which he is in possession or enjoyment, or to enforce any right or supposed right; or

Fifth.—By means of criminal force, or show of criminal force, to compel any person to do what he is not legally bound to do, or to omit to do what he is legally entitled to do.

Explanation—An assembly which was not unlawful when it assembled, may subsequently become an unlawful assembly

142 Whoever, being aware of facts which render any assembly an unlawful assembly, intentionally joins that assembly, or continues in it, is said to be a member of an unlawful assembly — Being member of unlawful assembly

143 Whoever is a member of an unlawful assembly, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both — Punishment.

Triable by any Magistrate Bailable Compoundable arrest without warrent

144 Whoever, being armed with any deadly weapon, or with anything which, used as a weapon of offence, is likely to cause death, is a member of an unlawful assemly, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both — Joining unlawful assembly armed with deadly weapon

Triable by any Magistrate Bailable Compoundable arrest without warrant

145 Whoever joins or continues in an unlawful assembly, knowing that such unlawful assembly has been commanded in the manner prescribed by law to disperse, shall be punished with imprisonment of either description for a term which may extend to two years or with fine, or with both — Joining or continuing in unlawful assembly knowing it has been commanded to disperse

Triable by any Magistrate, Bailable Compoundable, arrest without warrant

146 Whenever force or violence is used by an unlawful assembly or by any member thereof, in prosecution of the common object of such assmbly, every member of such assembly is guilty of the offence of rioting — Rioting

147 Whoever is guilty of rioting, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both — Punishment for rioting

Triable by any Magistrate, Bailable Compoundable with leave of Chief Court May arrest without warrant.

Rioting, armed with deadly weapon

[1] **148** Whoever is guilty of rioting, being armed with a deadly weapon or with anything which, used as a weapon of offence, is likely to cause death, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both

Triable by Magistrate of 1st Class Not Bailable Compoundable with leave of the Chief Court. May arrest without warrant

Every member of unlawful assembly guilty of offence committed in prosecution of common object

149 If an offence is committed by any member of an unlawful assembly in prosecution of the common object of that assembly, or such as the members of that assembly knew to be likely to be committed in prosecution of that object, every person who, at the time of the committing of that offence, is a member of the same assembly, is guilty of that offence

Procedure according to offence committed

Hiring or conniving at hiring of persons to join unlawful assembly

150 Whoever hires or engages, or employs, or promotes, or connives at the hiring, engagement or employment of any person to join or become a member of any unlawful assembly, shall be punishable as a member of such unlawful assembly, and for any offence which may be committed by any such person as a member of such unlawful assembly in pursuance of such hiring, engagement or employment, in the same manner as if he had been a member of such unlawful assembly, or himself had committed such offence

Procedure according to offence committed.

Knowingly joining or continuing in assembly of five or more persons after it has been commanded to disperse.

151 Whoever knowingly joins or continues in any assembly of five or more persons likely to cause a disturbance of the public peace, after such assembly has been lawfully commanded to disperse, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Explanation.—If the assembly is an unlawful assembly within the meaning of section 141, the offender will be punishable under section 145

Triable by any Magistrate. Compoundable with leave of Chief Court. Bailable. May arrest without warrant.

152. Whoever assaults or threatens to assault, or obstructs or attempts to obstruct, any public servant in the discharge of his duty as such public servant in endeavouring to disperse an unlawful assembly, or to suppress a riot or affray, or uses, or threatens, or attempts to use criminal force to such public servant, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both, Assaulting or obstructing public servant when *suppressing* riot, etc.

Triable by Magistrate of 1st Class. Not Compoundable. Not Bailable. May arrest without warrant.

153. Whoever, malignantly, or wantonly, by doing anything which is illegal, gives provocation to any person intending or knowing it to be likely that such provocation will cause the offence of rioting to be committed, shall, if the offence of rioting be committed in consequence of such provocation, be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both; and if the offence of rioting be not committed, with imprisonment of either description for a term which may extend to six months, or with fine, or with both. Wantonly giving provocation with intent to cause riot— if rioting be committed; if not committed.

Triable by any Magistrate. Bailable. Compoundable. May arrest without warrant.

154. Whenever any unlawful assembly or riot takes place the owner or occupier of the land upon which such unlawful assembly is held, or such riot is committed, and any person having or claiming an interest in such land, shall be punishable with fine not exceeding one thousand rupees, Owner or occupier of land on which an unlawful assembly is held

if he or his agent or manager, knowing that such offence is being or has been committed, or having reason to believe it is likely to be committed, do not give the earliest notice thereof in his or their power to the principal officer at the nearest police-station, and do not, in the case of his or their having reason to believe that it was about to be committed, use all lawful means in his or

their power to prevent it and, in the event of its taking place, do not use all lawful means in his or their power to disperse or suppress the riot or unlawful assembly

Triable by any Magistrate Bailable Compoundable. Police not to arrest without warrant

Liability of person for whose benefit riot is committed

155 Whenever a riot is committed for the benefit or on behalf of any person who is the owner or occupier of any land respecting which such riot takes place or who claims any interest in such land, or in the subject of any dispute which gave rise to the riot, or who has accepted or derived any benefit therefrom, such person shall be punishable with fine, if he or his agent or manager, having reason to believe that such riot was likely to be committed or that the unlawful assembly by which such riot was committed was likely to be held, shall not respectively use all lawful means in his or their power to prevent such assembly or riot from taking place, and for suppressing and dispersing the same

Liability of agent of owner or occupier for whose benefit riot is committed

156 Whenever a riot is committed for the benefit or on behalf of any person who is the owner or occupier of any land respecting which such riot takes place, or who claims any interest in such land, or in the subject of any dispute which gave rise to the riot, or who has acceptd or derived any benefit therefrom,

the agent or manager of such person shall be punishable *with fine*, if such *agent or manager, having reason to* believe that such riot was likely to be committed, or that the unlawful assembly by which such riot was committed was likely to be held, shall not use all lawful means in his power to prevent such riot or assembly from taking place and for suppressing and dispersing the same

Both the above Sections triable by any Magistrate.

Bailable Compoundable Police may not arrest without warrant

Harbouring persons hired for an unlawful assembly

157 Whoever harbours, receives or assembles in any house or premises in his occupation or charge, or under his control any persons, knowing that such persons have been hired, engaged or employed, or are about to be hired, engaged or employed, to join or become

members of an unlawful assembly, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine or with both

Triable by any Magistrate Not Bailable Not Compoundable Police may arrest without warrant

158 Whoever is engaged or hired, or offers or attempts to be hired or engaged, to do or assist in doing any of the acts specified in section 141, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both ; Being hired to take part in an unlawful assembly or riot,

and whoever, being so engaged or hired as aforesaid, goes armed, or engages or offers to go armed, with any deadly weapon or with anything which used as a weapon of offence is likely to cause death, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both or to go armed

Triable by any Magistrate, Not bailable, Not Compoundable Police may arrest without warrant

159 When two or more persons, by fighting in a public place, disturb the public peace, they are said to "commit an affray." Affray

160 Whoever commits an affray, shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to one hundred rupees, or with both Punishment for committing affray.

Triable by any Magistrate Bailable. Compoundable. Police cannot may arrest without warrant

CHAPTER IX[1]

OF OFFENCES BY OR RELATING TO PUBLIC SERVANTS

161. Whoever, being or expecting to be a public servant, accepts or obtains, or agrees to accept, or attempts to obtain from any person, for himself or for any other person, any gratification whatever, other than legal remuneration, as a motive or reward for doing or forbearing to do any official act or for showing or forbearing to show, in the exercise of his official functions, favour Public servant taking gratification other than legal remuneration in respect of a official act.

or disfavour to any person, or for rendering or attempting to render any service or disservice to any person, with the government of Marwar, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Explanations.—"Expecting to be a public servant" If a person not expecting to be in office obtains a gratification by deceiving others into a belief that he is about to be in office, and that he will then serve them, he may be guilty of cheating, but he is not guilty of the offence defined in this section

"Gratification." The word "gratification" is not restricted to pecuniary gratifications, or to gratifications estimable in money.

"Legal remuneration." The words "legal remuneration" are not restricted to remuneration which a public servant can lawfully demand, but include all remuneration which he is permitted by the [1]Government, which he serves, to accept.

"A motive or reward for doing." A person who receives a gratification as a motive for doing what he does not intend to do, or as a reward for doing what he has not done, comes within these words

Illustrations

(*a* A, a munsif obtains from Z, a banker, a situation in Z's bank for A's brother, as a reward to A for deciding a cause in favour of Z A has committed the offence defined in this section.

(*b*) A holding the office of Resident at the Court of a subsidiary Power, accepts a lakh of rupees from the Minister of that Power It does not appear that A accepted this sum as a motive or reward for doing or forbearing to do any particular official act, or for rendering or attempting to render any particular service to that Power with the British Government But it does appear that A accepted the sum as a motive or reward for generally showing favour in the exercise of his official functions to that Power A has committed the offence defined in this section

(*c*) A, a public servant, induces Z erroneously to believe that A's influence with the Government has obtained a title for Z, and thus induces Z to give A money as a reward for this service A has committed the offence defined in this section

162 Whoever accepts or obtains, or agrees to accept, or attempts to obtain, from any person, for himself or for any other person, any gratification whatever as a motive or reward for inducing, by corrupt or illegal means any public servant to do or to forbear to do any official act, or in the exercise of the official functions of such public servant to show favour or disfavour to any person, or to render or attempt to render any service or disservice to any person with the Government of Marwar, or with any Public servant shall be punished with imprisonment of either description that may extend to three years, or with fine, or with both

Taking gratification, in order by corrupt or illegal means to influence public servant

163 Whoever accepts or obtains, or agrees to accept or attempts to obtain, from any person, for himself or for any other person, any gratification whatever, as a motive or reward for inducing, by the exercise of personal influence, any public servant to do or to forbear to do any official act, or in the exercise of the official functions of such public servant to show favour or disfavour to any person, or to render or attempt to render any service or disservice to any person with the Government of Marwar or with any public servant shall be punished with simple imprisonment that may extend to one year, or with fine, or with both

Taking gratification for exercise of personal influence with public servant

Illustrations

An advocate who receives a fee for arguing a case before a Judge, a person who receives pay for arranging and correcting a memorial addressed to Government setting forth the services and claims of the memorialist a paid agent for a condemned criminal who lays before the Government statements tending to show that the condemnation was unjust —are not within this section inasmuch as they do not exercise or profess to exercise personal influence

164 Whoever, being a public servant, in respect of whom either of the offences defined in the last two preceding sections is committed, abets the offence, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both

Punishment for abetment by public servant of offences defined in section 162 or 163

Illustration

A is a public servant B A s wife, receives a present as a motive for soliciting A to give an office to a particular person A abets her

doing so B is punishable with imprisonment for a term not exceeding one year, or with fine, or with both A is punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

Public servant obtaining valuable thing without consideration from person concerned in proceeding or business transacted by such public servant

165 Whoever, being a public servant, accepts or obtains, or agrees to accept or attempts to obtain, for himself, or for any other person, any valuable thing without consideration, or for a consideration which he knows to be inadequate,

from any person whom he knows to have been, or to be, or to be likely to be concerned in any proceeding or business transacted or about to be transacted by such public servant, or having any connection with the official functions of himself or of any public servant to whom he is subordinate,

or from any person whom he knows to be interested in or related to the person so concerned,

shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both

Illustrations

(a) A a Collector, hires a house of Z, who has a settlement case pending before him It is agreed that A shall pay fifty rupees a month, the house being such that if the bargain were made in good faith A would be required to pay two hundred rupees a month A has obtained a valuable thing from Z without adequate consideration

(b) A, a Judge, buys of Z, who has a cause pending in A s Court, Government promissory notes at a discount, when they are selling in the market at a premium A has obtained a valuable thing from Z without adequate consideration

(c) Z s brother is apprehended and taken before A, a Magistrate, on a charge of perjury A sells to Z share in a bank at a premium, when they are selling in the market at a discount Z pays A for the shares accordingly The money so obtained by A is a valuable thing obtained by him without adequate consideration

Public servant disobeying law with intent to cause injury to any person

166 Whoever, being a public servant knowingly disobeys any direction of the law as to the way in which he is to conduct himself as such public servant, intending to cause, or knowing it to be likely that he will, by such disobedience, cause injury to any person, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

Illustration.

A, being an officer directed by law to take property in execution, in order to satisfy a decree pronounced in Z's favour by a Court of Justice, knowingly disobeys that direction of law, with the knowledge that he is likely thereby to cause injury to Z A has committed the offence defined in this section.

Public servant framing an incorrect document with intent to cause injury

167. Whoever, being a public servant, and being, as such public servant, charged with the preparation or translation of any document, frames or translates that document in a manner which he knows or believes to be incorrect, intending thereby to cause, or knowing it to be likely that he may thereby cause, injury to any person, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both

Public servant unlawfully engaging in trade

168 Whoever, being a public servant, and being legally bound as such public servant not to engage in trade, engages in trade, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

Public servant unlawfully buying or bidding for property

169 Whoever, being a public servant, and being legally bound as such public servant not to purchase or bid for certain property, purchases or bids for that property, either in his own name or in the name of another, or jointly, or in shares with others, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both, and the property if purchased, shall be confiscated

Prosecutions under Sections 161, 162, 163, 164, 165 and 166 of this Code require the sanction of the Darbar The Darbar will also direct in each case whether the Defendant is to be allowed Bail or otherwise, and shall also direct which Court the case is to be tried in.

× i.e. Judicial officers the State of other

Personating a public servant

170 Whoever pretends to hold any particular office as a public servant, knowing that he does not hold such office, or falsely personates any other person holding such office, and in such assumed character does or attempts to do any act under colour of such office, shall

be punished with imprisonment of either description, for a term which may extend to two years, or with fine, or with both

Wearing garb or carrying token used by public servant with fraudulent intent

171. Whoever, not belonging to a certain class of public servants, wears any garb or carries any token resembling any garb or token used by that class of public servants, with the intention that it may be believed, or with the knowledge that it is likely to be believed, that he belongs to that class of public servants, shall be punished with imprisonment of either description, for a term which may extend to three months, or with fine which may extend to two hundred rupees, or with both.

Sections 170, 171, of this Code are triable by any Magistrate, Bailable, Not Compoundable Police may arrest without warrant

CHAPTER X

OF CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS

Absconding to avoid service of summons or other proceeding

172 Whoever absconds in order to avoid being served with a summons, notice or order proceeding from any public servant legally competent, as such public servant, to issue such summons, notice or order, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both,

Triable by any Magistrate, Bailable Compoundable Police may not arrest without warrant

Preventing service of summons or other proceeding or preventing publication thereof

173 Whoever in any manner intentionally prevents the serving on himself, or on any other person, of any summons, notice or order proceeding from any public servant legally competent, as such public servant, to issue such summons, notice or order,

or intentionally prevents the lawful affixing to any place of any such summons, notice or order,

or intentionally removes any such summons, notice or order from any place to which it is lawfully affixed,

or intentionally prevents the lawful making of any proclamation, under the authority of any public servant legally competent, as such public servant, to direct such proclamation to be made,

shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both,

Triable by any Magistrate Bailable Compoundable. Police may not arrest without warrant

174 Whoever, being legally bound to attend in person or by an agent at a certain place and time in obedience to a summons, notice, order or proclamation proceeding from any public servant legally competent, as such public servant, to issue the same,

Non-attendance in obedience to an order from public servant.

intentionally omits to attend at that place or time, or departs from the place where he is bound to attend before the time at which it is lawful for him to depart,

shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to 500 Rs or with both

Triable by any Magistrate Bailable. Compoundable. Police may not arrest without warrant.

175 Whoever, being legally bound to produce or deliver up any document to any public servant, as such, intentionally omits so to produce or deliver up the same, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both,

Omission to produce document to public servant by person legally bound to produce it.

Illustration

A, being legally bound to produce a document before a *Zilla Court*, intentionally omits to produce the same A has committed the offence defined in this section

Triable by any Magistrate Bailable Police may not arrest without warrant Compoundable.

to be true, shall be punished with imprisonment of either description for a term which may extend to three years and shall also be liable to fine

Triable by Magistrate of 1st Class Bailable. Not Compoundable Police may not arrest without warrant

False information with intent to cause public servant to use his lawful power to the injury of another person

182 Whoever gives to any public servant any information which he knows or believes to be false, intending thereby to cause, or knowing it to be likely that he will thereby cause, such public servant—

(*a*) to do or omit anything which such public servant ought not to do or omit if the true state of facts respecting which such information is given were known by him, or

(*b*) to use the lawful power of such public servant to the injury or annoyance of any person,

shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both

Illustrations

(*a*) A informs a Magistrate that Z, a police officer, subordinate to such Magistrate has been guilty of neglect of duty or misconduct, knowing such information to be false, and knowing it to be likely that the information will cause the Magistrate to dismiss Z A has committed the offence defined in this section

(*b*) A falsely informs a public servant that Z has contraband salt in a secret place, knowing such information to be false, and knowing that it is likely that the consequence of the information will be a search of Z's premises attended with annoyance to Z A has committed the offence defined in this section

(*c*) A falsely informs a policeman that he has been assaulted and robbed in the neighbourhood of a particular village He does not mention the name of any person as one of his assailants, but knows it to be likely that in consequence of this information the police will make enquiries and institute searches in the village to the annoyance of the villagers or some of them A has committed an offence under this section

Triable by any Magistrate Bailable Not Compoundable Police may not arrest without warrant.

183 Whoever, offers any resistance to the taking of any property by the lawful authority of any public servant, knowing or having reason to believe that he is such public servant, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both

Resistance to taking of property by lawful authority of public servant

Triable by any Magistrate Bailable Not Compoundable Police may not arrest without warrant

184 Whoever, intentionally obstructs any sale of property offered for sale by the lawful authority of any public servant, as such, shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both

Obstructing sale of property offered for sale by authority of public servant

Triable by any Magistrate Bailable Not Compoundable Police may not arrest without warrant

185 Whoever, at any sale of property held by the lawful authority of a public servant, as such, purchases or bids for any property on account of any person, whether himself or any other, whom he knows to be under a legal incapacity to purchase that property at that sale, or bids for such property not intending to perform the obligations under which he lays himself by such bidding, shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both.

Illegal purchase or bid for property offered for sale by authority of public servant

Triable by any Magistrate Bailable Not Compoundable Police may not arrest without warrant

186 Whoever, voluntarily obstructs any public servant in the discharge of his public functions shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred rupees or with both

Obstructing public servant in discharge of public functions

Triable by any Magistrate Bailable Not Compoundable Police may not arrest without warrant

Omission to assist public servant when bound by law to give assistance

187. Whever, being bound by law to render or furnish assistance to any public servant in the execution of his public duty, intentionally omits to give such assistance, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both;

and if such assistance be demanded of him by a public servant legally competent to make such demand for the purposes of executing any process lawfully issued by a Court of Justice, or of preventing the commission of an offence, or of suppressing a riot or affray, or of apprehending a person charged with or guilty of an offence, or of having escaped from lawful custody, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both

Triable by any Magistrate. Bailable Not Compoundable. Police may not arrest without warrant

Disobedience to order duly promulgated by public servant.

188 Whoever, knowing that, by an order promulgated by a public servant lawfully empowered to promulgate, such order, he is directed to abstain from a certain act, or to take certain order with certain [illegible] ses-

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Erratum.

Sec. 188 · Read for a term which may extend to six months, or with fine which may extend to one thousand rupees. —

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danger to human life, health or safety, or causes or tends to cause a riot or affray, shall be punished with imprisonment of either description for a term which may extend to one thousand rupees, or with both.

Explanation.—It is not necessary that the offender should intend to produce harm, or contemplate his disobedience as likely to produce harm. It is sufficient that he knows of the order which he disobeys, and that his disobedience produces, or is likely to produce, harm.

Illustration

An order is promulgated by a public servant lawfully empowered to promulgate such order, directing that a religious procession shall not pass down a certain street A knowingly disobeys the order, and thereby causes danger of riot A has committed the offence defined in this section

Triable by any Magistrate. Bailable Not Compoundable Police may not arrest without warrant.

189. Whoever holds out any threat of injury to any public servant, or to any person in whom he believes that public servant to be interested, for the purpose of inducing that public servant to do any act, or to forbear or delay to do any act, connected with the exercise of the public functions of such public servant, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both

Threat of injury to public servant

Triable by Magistrate 1st Class Bailable. Not Compoundable Police may not arrest without warrant

190 Whoever holds out any threat of injury to any person for the purpose of inducing that person to refrain or desist from making a legal application for protection against any injury to any public servant legally empowered, as such to give such protection, or to cause such protection to be given, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both

Threat of injury to induce person to refrain from applying for protection to public servant

Triable by Magistrate 1st Class Bailable. Not Compoundable Police may not arrest without warrant.

CHAPTER XI

OF FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE.

191 Whoever being legally bound by an oath or by an express provision of law to state the truth, or being bound by law to make a declaration upon any subject, makes any statement which is false, and which he either knows or believes to be false or does not believe to be true, is said to give false evidence.

Giving false evidence

Explanation 1—A statement is within the meaning of this section, whether it is made verbally or otherwise.

Explanation 2.—A false statement as to the belief of the person attesting is within the meaning of this section, and a person may be guilty of giving false evidence by stating that he believes a thing which he does not believe, as well as by stating that he knows a thing which he does not know

Illustrations

(*a*) A in support of a just claim which B has against Z for one thousand rupees, falsely swears on a trial that he heard Z admit the justice of B s claim A has given false evidence

(*b*) A, being bound by an oath to state the truth states that he believes a certain signature to be the handwriting of Z, when he does not believe it to be the handwriting of Z Here A states that which he knows to be false and therefore gives false evidence

(*c*) A, knowing the general character of Z s handwriting, states that he believes a certain signature to be the handwriting of Z, A in good faith believing it to be so Here A s statement is merely as to his belief, and is true as to his belief, and therefore, although the signature may not be the handwriting of Z, A has not given false evidence

(*d*) A, being bound by an oath to state the truth, states that he knows that Z was at a particular place on a particular day, not knowing anything upon the subject A gives false evidence whether Z was at that place on the day named or not

(*e*) A, an interpreter or translator, gives or certifies as a true interpretation or translation of a statement or document, which he is bound by oath to interpret or translate truly, that which is not and which he does not believe to be a true interpretation or translation A has given false evidence

Fabricating false evidence

192. Whoever causes any circumstance to exist or makes any false entry in any book or record, or makes any document containing a false statement, intending that such circumstance, false entry or false statement may appear in evidence in a judicial proceeding, or in a proceeding taken by law before a public servant as such, or before an arbitrator, and that such circumstance, false entry or false statement, so appearing in evidence, may cause any person who in such proceeding is to form an opinion upon the evidence, to entertain an erroneous

opinion touching any point material to the result of such proceeding, is said "to fabricate false evidence."

Illustrations

(a) A puts jewels into a box belonging to Z, with the intention that they may be found in that box, and that this circumstance may cause Z to be convicted of theft A has fabricated false evidence

(b) A makes a false entry in his shop book for the purpose of using it as corroborative evidence in a Court of Justice A has fabricated false evidence

(c) A, with the intention of causing Z to be convicted of a criminal conspiracy, writes a letter in imitation of Z s handwriting purporting to be addressed to an accomplice in such criminal conspiracy, and puts the letter in a place which he knows that the officers of the Police are likely to search A has fabricated false evidence

193 Whoever intentionally gives false evidence in any stage of a judicial proceeding, or fabricates false evidence for the purpose of being used in any stage of a judicial proceeding, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine, Punishment for false evidence

and whoever intentionally gives or fabricates false evidence in any other case, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Explanation 1.—A trial before a Court martial * * * * is a judicial proceeding.

Explanation 2—An investigation directed by law preliminary to a proceeding before a Court of Justice, is a stage of a judicial proceeding, though that investigation may not take place before a Court of Justice

Illustration.

A, in an enquiry before a Magistrate for the purpose of ascertaining whether Z ought to be committed for trial makes on oath a statement which he knows to be false As this enquiry is a stage of a judicial proceeding A has given false evidence

Explanation 3—An investigation directed by a Court of Justice according to law, and conducted under the authority of a Court of Justice, is a stage of a judicial proceeding, though that investigation may not take place before a Court of Justice.

Illustration

A in an enquiry before an officer deputed by a Court of Justice to ascertain on the spot the boundaries of land makes on oath a statement which he knows to be false As this enquiry is a stage of a judicial proceeding, A has given false evidence

Triable by Magistrate 1st Class. Bailable Not Compoundable Police may not arrest without warrant

Giving or fabricating false evidence with intent to procure conviction of capital offence

194 Whoever gives or fabricates false evidence, intending thereby to cause, or knowing it to be likely that he will thereby cause, any person to be convicted of an offence which is capital [by the law of British India or England], shall be punished with transportation for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine,

If innocent person be thereby convicted and executed.

and if an innocent person be convicted and executed in consequence of such false evidence, the person who gives such false evidence shall be punished either with death or the punishment hereinbefore described

Triable by Court of the Faujdar Not Bailable Not Compoundable Police may not arrest without warrant

Giving or fabricating false evidence with intent to procure conviction of offence punishable with transportation or imprisonment

195 Whoever gives or fabricates false evidence, intending thereby to cause, or knowing it to be likely that he will thereby cause, any person to be convicted of an offence which [by the law of British India or England] is not capital, but punishable with transportation for life, or imprisonment for a term of seven years or upwards, shall be punished as a person convicted of that offence would be liable to be punished.

Illustration

A, gives false evidence before a Court of Justice intending thereby to cause Z to be convicted of a dacoity The punishment of dacoity is transportation for life, or rigorous imprisonment for a term which may extend to ten years, with or without fine A, therefore, is liable to such transportation or imprisonment with or without fine

Triable by Court of the Faujdar Not Bailable Not Compoundable Police may not arrest without warrant.

Using evidence known to be false.

196 Whoever corruptly uses or attempts to use as true or genuine evidence any evidence which he knows to be false or fabricated, shall be punished in the same manner as if he gave or fabricated false evidence.

Triable by Court of the Faujdar Not Bailable Not Compoundable Police may not arrest without warrant.

197. Whoever issues or signs any certificate required by law to be given or signed, or relating to any fact of which such certificate is by law admissible in evidence, knowing or believing that such certificate is false in any material point, shall be punished in the same manner as if he gave false evidence

Issuing or signing false certificate

Triable by Court of the Faujdar Not Bailable Not Compoundable Police may not arrest without warrant

198 Whoever corruptly uses or attempts to use any such certificate as a true certificate, knowing the same to be false in any material point, shall be punished in the same manner as if he gave false evidence.

Using as true a certificate known to be false

Triable by Court of the Faujdar Not Bailable Not Compoundable Police may not arrest without warrant.

199 Whoever, in any declaration made or subscribed by him, which declaration any Court of Justice, or any public servant or other person, is bound or authorized by law to receive as evidence of any fact, makes any statement which is false, and which he either knows or believes to be false or does not believe to be true, touching any point material to the object for which the declaration is made or used, shall be punished in the same manner as if he gave false evidence.

False statement made in declaration which is by law receivable as evidence

Triable by Magistrate 1st Class Bailable Not Compoundable. Police may not arrest without warrant

200 Whoever corruptly uses or attempts to use as true any such declaration, knowing the same to be false in any material point, shall be punished in the same manner as if he gave false evidence.

Using as true such declaration knowing it to be false

Explanation—A declaration which is inadmissible merely upon the ground of some informality, is a declaration within the meaning of sections 199 and 200

Triable by Magistrate 1st Class Bailable Not Compoundable Police may not arrest without warrant

Causing disappearance of evidence of offence or giving false information to screen offender—

201 Whoever, knowing or having reason to believe that an offence has been committed, causes any evidence of the commission of that offence to disappear, with the intention of screening the offender from legal punishment, or with that intention gives any information respecting the offence which he knows or believes to be false

if a capital offence

shall, if the offence which he knows or believes to have been committed is punishable with death, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine,

if punishable with transportation

and if the offence is punishable with transportation for life, or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description *for a term which may extend to three years*, and shall also be liable to fine,

if punishable with less than ten years' imprisonment

and if the offence is punishable with imprisonment for any term not extending to ten years, shall be punished with imprisonment of the description provided for the offence, *for a term which may extend to one fourth part of* the longest term of the imprisonment provided for the offence, or with fine, or with both

Illustration

A knowing that B has murdered Z assists B to hide the body with the intention of screening B from punishment A, is liable to imprisonment of either description for seven years and also to fine

Triable by Court of the Faujdar Not Bailable Not Compoundable Police may not arrest without warrant

Intentional omission to give information of offence by person bound to inform

202 Whoever, knowing or having reason to believe that an offence has been committed, intentionally omits to give any information respecting that offence which he is legally bound to give, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both

Triable by any Magistrate. Bailable Not Compoundable Police may not arrest without warrant.

203 Whoever, knowing or having reason to believe that an offence has been committed, gives any information respecting that offence which he knows or believes to be false, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both

Giving false information respecting an offence committed

Explanation—In sections 201 and 202 and in this section the word "offence" includes any act committed at any place out of Marwar, which if committed in Marwar would be punishable under any of the following sections namely 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459, and 460

Triable by Magistrate of the 1st Class Bailable Not Compoundable Police may not arrest without warrant

204 Whoever, secretes or destroys any document which he may be lawfully compelled to produce as evidence in a Court of Justice, or in any proceeding lawfully held before a public servant, as such, or obliterates or renders illegible the whole or any part of such document with the intention of preventing the same from being produced or used as evidence before such Court or public servant as aforesaid, or after he shall have been lawfully summoned or required to produce the same for that purpose, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both,

Destruction of document to prevent its production as evidence

Triable by Magistrate of 1st Class Bailable Not Compoundable Police may not arrest without warrant

205 Whoever falsely personates another, and in such assumed character makes any admission or statement, or confesses judgment, or causes any process to be issued or becomes bail or security, or does any other act in any suit or criminal prosecution, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both

False personation for purpose of act or proceeding in suit or prosecution

Triable by Magistrate of 1st Class. Bailable. Not Compoundable Police may not arrest without warrant

209 Whoever fraudulently or dishonestly, or with intent to injure or annoy any person, makes in a Court of Justice any claim which he knows to be false, or obtains an order or decree against any person for a sum not due, or for a sum larger than is due, or fraudulently causes a decree to be executed against any person after it has been satisfied or suffers any such act to be done in his name or on his behalf shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both

Triable by Court of the Faujdar Bailable Not Compoundable save with leave of the Chief Court

Police may not arrest without warrant.

False charge of offence made with intent to injure

211. Whoever, with intent to cause injury to any person, institutes or causes to be instituted any criminal proceeding against that person, or falsely charges any person with having committed an offence, knowing that there is no just or lawful ground for such proceeding or charge against that person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both

Triable by Magistrate 1st Class Bailable Not Compoundable Police may not arrest without warrant

and if such criminal proceeding be instituted on a false charge of an offence punishable with death, transportation for life, or imprisonment for seven years or upwards, shall be punishable with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine

Triable by Court of the Faujdar. Not Bailable Not Compoundable Police may not arrest without warrant

Harbouring offender

212 Whenever an offence has been committed, whoever harbours or conceals a person whom he knows or has reason to believe to be the offender, with the intention of screening him from legal punishment

If a capital offence

shall, if the offence is punishable with death, be punished with imprisonment of either description for a term

which may extend to five years, and shall also be liable to fine;

and if the offence is punishable with transportation for life, or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine,

If punishable with transportation for life, or with imprisonment

and if the offence is punishable with imprisonment which may extend to one year, and not to ten years, shall be punished with imprisonment of the description provided for the offence for a term which may extend to one-fourth part of the longest term of imprisonment provided for the offence, or with fine, or with both

Exception—This provision shall not extend to any case in which the harbour or concealment is by the husband or wife of the offender.

Illustration.

A, knowing that B has committed dacoity, knowingly conceals B in order to screen him from legal punishment Here, as B is liable to transportation for life, A is liable to imprisonment of either description for a term not exceeding three years, and is also liable to fine.

Triable by Court of the Faujdar Not Bailable. Not Compoundable. Police may ~~not~~ arrest without warrant.

218. Whoever, being a public servant, and being as such public servant, charged with the preparation of any record or other writing, frames that record or writing in a manner which he knows to be incorrect, with intent to cause, or knowing it to be likely that he will thereby cause, loss or injury to the public or to any person, or with intent thereby to save, or knowing it to be likely that he will thereby save, any person from legal punishment, or with intent to save, or knowing that he is likely thereby to save, any property from forfeiture or other charge to which it is liable by law, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Public servant framing incorrect record or writing with intent to save person from punishment or property from forfeiture.

Triable by Court of Faujdar Bailable. Not Compoundable. Police may not arrest without warrant.

209 Whoever fraudulently or dishonestly, or with intent to injure or annoy any person, makes in a Court of Justice any claim which he knows to be false, or obtains an order or decree against any person for a sum not due, or for a sum larger than is due, or fraudulently causes a decree to be executed against any person after it has been satisfied or suffers any such act to be done in his name or on his behalf shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both

Triable by Court of the Faujdar. Bailable Not Compoundable save with leave of the Chief Court

Police may not arrest without warrant.

False charge of offence made with intent to injure

211. Whoever, with intent to cause injury to any person, institutes or causes to be instituted any criminal proceeding against that person, or falsely charges any person with having committed an offence, knowing that there is no just or lawful ground for such proceeding or charge against that person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both

Triable by Magistrate 1st Class Bailable Not Compoundable Police may not arrest without warrant

and if such criminal proceeding be instituted on a false charge of an offence punishable with death, transportation for life, or imprisonment for seven years or upwards, shall be punishable with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine

Triable by Court of the Faujdar. Not Bailable Not Compoundable Police may not arrest without warrant

Harbouring offender

212. Whenever an offence has been committed, whoever harbours or conceals a person whom he knows or has reason to believe to be the offender, with the intention of screening him from legal punishment

if a capital offence,

shall, if the offence is punishable with death, be punished with imprisonment of either description for a term

which may extend to five years, and shall also be liable to fine;

and if the offence is punishable with transportation for life, or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine, [illegible]

and if the offence is punishable with imprisonment which may extend to one year, and not to ten years, shall be punished with imprisonment of the description provided for the offence for a term which may extend to one-fourth part of the longest term of imprisonment provided for the offence, or with fine, or with both.

Exception—This provision shall not extend to any case in which the harbour or concealment is by the husband or wife of the offender.

Illustration.

A, knowing that B has committed dacoity, knowingly conceals B in order to screen him from legal punishment Here, as B is liable to transportation for life, A is liable to imprisonment of either description for a term not exceeding three years, and is also liable to fine.

Triable by Court of the Faujdar Not Bailable. Not Compoundable Police may ~~not~~ arrest without warrant.

218 Whoever, being a public servant, and being as such public servant, charged with the preparation of any record or other writing, frames that record or writing in a manner which he knows to be incorrect, with intent to cause, or knowing it to be likely that he will thereby cause, loss or injury to the public or to any person, or with intent thereby to save, or knowing it to be likely that he will thereby save, any person from legal punishment, or with intent to save, or knowing that he is likely thereby to save, any property from forfeiture or other charge to which it is liable by law, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both. [illegible]

Triable by Court of Faujdar Bailable. Not Compoundable. Police may not arrest without warrant.

SEC. 224. Whoever intentionally offers any resistance or illegal obstruction to the lawful apprehension of himself for any offence, with which he is charged or of which he has been convicted or escapes or attempts to escape from any custody in which he is lawfully detained for any such offence, shall be punished with imprisonment of either description for a term which may extend to two years or with fine or with both

Resistance or obstruction by a person to his lawful apprehension

EXPLANATION.—The punishment in this section is in addition to the punishment for which the person to be apprehended or detained in custody was liable for the offence with which he was charged or of which he was convicted

Triable by Magistrate, First class Bailable Not compoundable. Police may arrest without warrant.

SEC 225 Whoever intentionally offers any resistance or illegal obstruction to the lawful apprehension of any other person for an offence, or rescues or attempts to rescue any other person from any custody in which that person is lawfully detained for an offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine or with both;

Resistance or obstruction to lawful apprehension of another person

or, if the person to be apprehended, or the person rescued or attempted to be rescued, is charged with or liable to be apprehended for an offence punishable with transportation for life or imprisonment for a term which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years and shall also be liable to fine;

or, if the person to be apprehended, or rescued, or attempted to be rescued, is charged with or liable

Illustrations

(*a*) Cowries are not coin.

(*b*) Lumps of unstamped copper, though used as money, are not coin.

(*c*) Medals are not coin, inasmuch as they are not intended to be used as money.

(*d*) The coin denominated as the Company's rupee is the Queen's coin

(*e*) The "Farukhabad" rupee, which was formerly used as money under the authority of the Government of India, is Queen's coin although it is no longer so used

231. Whoever counterfeits, or knowingly performs any part of the process of counterfeiting coin, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine Counterfeiting coin

Explanation—A person commits this offence who intending to practise deception, or knowing it to be likely that deception will thereby be practised, causes a genuine coin to appear like a different coin.

Triable by Court of the Faujdar. Not Bailable No Compoundable. Police may arrest without warrant

235. Whoever is in possession of any instrument or material, for the purpose of using the same for counterfeiting coin, or knowing or having reason to believe that the same is intended to be used for that purpose, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; Possession of instrument or material for the purpose of using the same for counterfeiting coin,

Triable by Magistrate of 1st Class Not Bailable. Not Compoundable Police may arrest without warrant.

236 Whoever being in Marwar abets the counterfeiting of coin out of Marwar shall be punished in the same manner as if he had abetted the counterfeiting of such coin in Marwar.

237 Whoever imports into Marwar or exports there from any counterfeit coin knowing or having reason to believe that the same is counterfeit shall be punished

with imprisonment of either description for a term which may extend to three years and shall also be liable to fine

Triable by Magistrate of 1st Class. Not Bailable. Not Compoundable. Police may arrest without warrant.

Delivery of coin possessed wiht knowledge that it is counterfeit

239. Whoever having any counterfeit coin, which at the time when he became possessed of it he knew to be counterfeit, fraudulently or with intent that fraud may be committed, delivers the same to any person, or attempts to induce any person to receive it, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

Triable by Magistrate of 1st Class. Not Bailable. Not compoundable Police may arrest without warrant.

Delivery of coin as genuine which when first possessed, the deliverer did not know to be counterfeit.

241 Whoever delivers to any other person as genuine, or attempts to induce any other person to receive as genuine, any counterfeit coin which he knows to be counterfeit, but which he did not know to be counterfeit at the time when he took it into his possession, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine to an amount which may extend to ten times the value of the coin counterfeited, or with both.

Triable by Magistrate of 1st Class Not Bailable. Not Compoundable Police may arrest without warrant.

Altering appearance of coin with intent that it shall pass as coin of different description.

248. Whoever performs on any coin any operation which alters the appearance of that coin, with the intention that the said coin shall pass as a coin of a different description, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Triable by Magistrate of 1st Class Not Bailable. Not Compoundable. Police may arrest without warrant.

Counterfeiting Government stamp.

255. Whoever counterfeits, or knowingly performs any part of the process of counterfeiting, any stamp issued by Government for the purpose of revenue, shall be punished with transportation for life or with imprisonment

of either description for a term which may extend to ten years, and shall also be liable to fine

Explanation—A person commits this offence who counterfeits by causing a genuine stamp of one denomination to appear like a genuine stamp of a different denomination

Triable by Court of the Faujdar Not Bailable Not Compoundable Police may arrest without warrant

258 Whoever sells or offers for sale, or has in his possession any stamp which he knows or has reason to believe to be a counterfeit of any stamp issued by Government for the purpose of revenue, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine

Triable by Court of the Faujdar Not Bailable Not Compoundable Police may arrest without warrant

CHAPTER XIII

OF OFFENCES RELATING TO WEIGHTS AND MEASURES

264 Whoever fraudulently uses or possesses, any instrument for weighing which he knows to be false, shall be punished with imprisonment of either description for a term which may extend to one year or with fine or with both

Fraudulent use of false instrument for weighing

Triable by any Magistrate Bailable Not Compoundable Police may not arrest without warrant

CHAPTER XIV

OF OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS

268. A person is guilty of public nuisance who does any act or is guilty of an illegal omission which causes any common injury, danger or annoyance to the public or to the people in general who dwell or occupy property in the vicinity, or which must necessarily cause injury, obstruction, danger or annoyance to persons who may have occasion to use any public right

Public nuisance

A common nuisance is not excused on the ground that it causes some convenience or advantage

Negligent act likely to spread infection of disease dangerous to life

269. Whoever unlawfully or negligently does any act which is, and which he knows or has reason to belive to be, likely to spread the infection of any disease dangerous to life, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Triable by any Magistrate Bailable. Not Compoundable Police may not arrest without warrant.

Adulteration of food or drink intended for sale

272 Whoever adulterates any article of food or drink, so as to make such article noxious as food or drink, intending to sell such article as food or drink, or knowing it to be likely that the same will be sold as food or drink, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Triable by any Magistrate Bailable. Not Compoundable. Police may not arrest without warrant.

Sale of noxious food or drink.

273. Whoever sells, or offers or exposes for sale, as food or drink, any article which has been rendered or has become noxious, or is in a state unfit for food or drink, knowing or having reason to believe that the same is noxious as food or drink, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Triable by any Magistrate. Bailable. Not Compoundable. Police may not arrest without warrant.

Fouling water of public spring or reservoir.

277. Whoever voluntarily corrupts or fouls the water of any public spring or reservoir, so as to render it less fit for the purpose for which it is ordinarily used, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

Triable by any Magistrate. Bailable. Not Compoundable Police may not arrest without warrant.

279 Whoever drives any vehicle, or rides, on any public way in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any other person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both

Rash driving or riding on a public way

Triable by any Magistrate Bailable Not Compoundable Police may arrest without warrant

285 Whoever does, with fire or any combustible matter, any act so rashly or negligently as to endanger human life, or to be likely to cause hurt or injury to any other person

Negligent conduct with respect to fire or combustible matter

or knowingly or negligently omits to take such order with any fire or any combustible matter in his possession as is sufficient to guard against any probable danger to human life from such fire or combustible matter

shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both

Triable by any Magistrate, Bailable Not Compoundable. Police may arrest without warrant

287 Whoever does, with any machinery, any act so rashly or negligently as to endanger human life or to be likely to cause hurt or injury to any other peson,

Negligent conduct with respect to machinery

or knowingly or negligently omits to take such order with any machinery in his possession or under his care as is sufficient to guard against any probable danger to human life from such machinery

shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees or with both

Triable by any Magistrate Bailable Not Compoundable Police may not arrest without warrant

Punishment for public nuisance in cases not otherwise provided for.

290 Whoever commits a public nuisance in any case not otherwise punishable by this Code, shall be punished with fine which may extend to two hundred rupees.

Triable by any Magistrate. Bailable Not Compoundable. Police may not arrest without warrant.

Continuance of nuisance after injunction to discontinue.

291. Whoever repeats or continues a public nuisance having been enjoined by any public servant who has lawful authority to issue such injunction not to repeat or continue such nuisance, shall be punished with simple imprisonment for a term which may extend to six months, or with fine, or with both.

Triable by any Magistrate Bailable. Not Compoundable. Police may not arrest without warrant.

Sale etc, of obscene books, etc

292 Whoever sells or distributes, imports or prints for sale or hire, or wilfully exhibits to public view, any obscene book, pamphlet, paper, drawing, painting, representation or figure, or attempts, or offers so to do, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.

Exception —This section does not extend to any representation sculptured, engraved, painted or otherwise represented, on or in any temple, or on any car used for the conveyance of idols, or kept or used for any religious purpose

Triable by any Magistrate. Bailable. Not Compoundable Police may arrest without warrant.

Obscene acts and songs.

294. Whoever, to the annoyance of others.

(*a*) does any obscene act in any public place, or

(*b*) sings, recites or utters any obscene songs, ballad or words, in or near any public place.

shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.

Triable by any Magistrate. Bailable. Not Compoundable Police may arrest without warrant.

294A Whoever keeps any office or place for the purpose of drawing any lottery not authorized by Government shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both. Keeping lottery office

Triable by any Magistrate Bailable Not Compoundable Police may not arrest without warrant

CHAPTER XV

Of Offences relating to Religion

295 Whoever destroys, damages or defiles any place of worship, or any object held sacred by any class of persons with the intention of thereby insulting the religion of any class of persons or with the knowledge that any class of persons is likely to consider such destruction, damage or defilement as an insult to their religion, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both. Injuring or defiling place of worship with intent to insult the religion of any class

296 Whoever voluntarily causes disturbance to any assembly lawfully engaged in the performance of religious worship, or religious ceremonies, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both. Disturbing religious assembly

297. Whoever, with the intention of wounding the feelings of any person, or of insulting the religion of any person, or with the knowledge that the feelings of any person are likely to be wounded, or that the religion of any person is likely to be insulted thereby, Trespassing on burial places etc

commits any trespass in any place of worship or on any place of sepulture, or any place set apart for the performance of funeral rites or as a depository for the remains of the dead, or offers any indignity to any human corpse, or causes disturbance to any persons assembled for the performance of funeral shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both

Uttering words etc with deliberate intent to wound religious feelings

298 Whoever, with deliberate intention of wounding the religious feelings of any person, utters any word or makes any sound in the hearing of that person or makes any gesture in the sight of that person, or places any object in the sight of that person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both

All offences under Chapter XV are triable by Magistrates of 1st Class All offences are Bailable All Compoundable with permission of the Chief Court Police may not arrest without warrant

CHAPTER XVI

OF OFFENCES AFFECTING THE HUMAN BODY

Of Offences affecting Life

Culpable homicide

299 Whoever causes death by doing an act with the intention of causing death, or with the intention of causing such bodily injury as is likely to cause death, or with the knowledge that he is likely by such act to cause death, commits the offence of culpable homicide

Illustrations

(*a*) A lays sticks and turf over a pit with the intention of thereby causing death or with the knowledge that death is likely to be thereby caused Z believing the ground to be firm, treads on it falls in and is killed A has committed the offence of culpable homicide

(*b*) A knows Z to be behind a bush B does not know it A, intending to cause, or knowing it to be likely to cause Z s death, induces B to fire at the bush B fires and kills Z Here B may be guilty of no offence, but A has committed the offence of culpable homicide

( ) A by shooting at a fowl with intent to kill and steal it, kills B, who is behind a bush, A not knowing that he was there Here although A was doing an unlawful act, he was not guilty of culpable homicide, as he did not intend to kill B, or cause death by doing an act that he knew was likely to cause death

Explanation 1 — A person who causes bodily injury to another who is labouring under a disorder, disease or bodily infirmity, and thereby accelerates the death of that other, shall be deemed to have caused his death.

Explanation 2—Where death is caused by bodily injury, the person who causes such bodily injury shall be deemed to have caused the death, although by resorting to proper remedies and skilful treatment the death might have been prevented.

Explanation 3—The causing of the death of a child in the mother's womb is not homicide But it may amount to culpable homicide to cause the death of a living child, if any part of that child has been brought forth, though the child may not have breathed or been completely born

300 Except in the cases hereinafter excepted, culpable homicide is murder, if the act by which the death is caused is done with the intention of causing death, or— Murder.

2ndly—If it is done with the intention of causing such bodily injury as the offender knows to be likely to cause the death of the person to whom the harm is caused, or—

3rdly,—If it is done with the intention of causing bodily injury to any person and the bodily injury intended to be inflicted is sufficient in the ordinary course of nature to cause death, or—

4thly,—If the person committing the act knows that it is so imminently dangerous that it must in all probability cause death, or such bodily injury as is likely to cause death, and commits such act without any excuse for incurring the risk of causing death or such injury as aforesaid

Illustrations.

(*a*) A shoots Z with the intention of killing him Z dies in consequence. A commits murder.

(*b*) A, knowing that Z is labouring under such a disease that a blow is likely to cause his death, strikes him with the intention of causing bodily injury. Z dies in consequence of the blow. A is guilty of murder, although the blow might not have been sufficient in the ordinary course of nature to cause the death of a person in a sound state of health But if A, not knowing that Z is labouring under any disease, gives him such a blow as would not in the ordinary course of nature kill a person in a sound state of health, here A, although he may intend to cause bodily injury, is not guilty of murder, if he did not intend to cause death or such bodily injury as in the ordinary course of nature would cause death

(c) A intentionally gives Z a sword cut or club-wound sufficient to cause the death of a man in the ordinary course of nature. Z dies in consequence. Here A is guilty of murder, although he may not have intended to cause Z's deth

(d) A without any excuse fires a loaded cannon into a crowd of persons and kills one of them. A is guilty of murder although he may not have had premeditated design to kill any particular individual.

When culpable homicide is not murder

Exception 1.—Culpable homicide is not murder if the offender, whilst deprived of the power of self-control by grave and sudden provocation, causes the death of the person who gave the provocation, or causes the death of any other person by mistake or accident.

The above exception is subject to the following provisos :—

First —That the provocation is not sought or voluntarily provoked by the offender as an excuse for killing or doing harm to any person.

Secondly—That the provocation is not given by anything done in obedience to the law, or by a public servant in the lawful exercise of the powers of such public servant.

Thirdly —That the provocation is not given by anything done in the lawful exercise of the right of private defence.

Explanation —Whether the provocation was grave and sudden enough to prevent the offence from amounting to murder is a question of fact.

Illustrations.

(a) A, under the influence of passion excited by a provocation given by Z, intentionally kills Y, Z's child. This is murder, inasmuch as the provocation was not given by the child, and the death of the child was not caused by accident or misfortune in doing an act caused by the provocation.

(b) Y gives grave and sudden provocation to A. A, on this provocation, fires a pistol at Y, neither intending nor knowing himself to be likely to kill Z, who is near him, but out of sight. A kills Z. Here A has not committed murder, but merely culpable homicide.

(c) A is lawfully arrested by Z, a bailiff. A is excited to sudden and violent passion by the arrest, and kills Z. This is murder, inasmuch as the provocation was given by a thing done by a public servant in the exercise of his powers

(*d*) A appears as a witnesses before Z a Magistrate Z says that he does not believe a word of A s deposition and that A has perjured himself A is moved to sudden passion by these words and kills Z This is murder

(*e*) A attempts to pull Z s nose Z, in the exercise of the right of private defence lays hold of A to prevent him from doing so A is moved to sudden and violent passion in consequence and kills Z This is murder, inasmuch as the provocation was given by a thing done in the exercise of the right of private defence

(*f*) Z strikes B, B is by this provocation excited to violent rage A, a bystander, intending to take advantage of B s rage and to cause him to kill Z, puts a knife into B s hand for that purpose B kills Z with the knife Here B may have committed only culpable homicide but A is guilty of murder

Exception 2—Culpable homicide is not murder if the offender, in the exercise in good faith of the right of private defence of person or property, exceeds the power given to him by law and causes the death of the person against whom he is exercising such right of defence without pre meditation, and without any intention of doing more harm than is necessary for the purpose of such defence

Illustration

Z attempts to horsewhip A not in such a manner as to cause grievous hurt to A A draws out a pistol Z persists in the assault A, believing in good faith that he can by no other means prevent himself from being horsewhipped shoots Z dead A has not com mitted murder, but only culpable homicide

Exception 3—Culpable homicide is not murder if the offender, being a public servant or aiding a public servant acting for the advancement of public justice, exceeds the powers given to him by law, and causes death by doing an act which he, in good faith, believes to be lawful and necessary for the due discharge of his duty as such public servant and without ill-will towards the person whose death is caused

Exception 4—Culpable homicide is not murder if it is committed without premeditation in a sudden fight in the heat of passion upon a sudden quarrel and without the offender's having taken undue advantage or acted in a cruel or unusual manner

Explanation—It is immaterial in such cases which party offers the provocation or commits the first assault

Exception 5—Culpable homicide is not murder when the person whose death is caused, being above the age of eighteen years, suffers death or takes the risk of death with his own consent

Illustration

A, by instigation voluntarily causes Z, a person under eighteen years of age, to commit suicide. Here, on account of Z's youth he was incapable of giving consent to his own death, A has therefore abetted murder

Culpable homicide by causing death of person other than person whose death was intended

301. If a person, by doing anything which he intends or knows to be likely to cause death, commits culpable homicide by causing the death of any person, whose death he neither intends nor knows himself to be likely to cause, the culpable homicide committed by the offender is of the description of which it would have been if he caused the death of the person whose death he intended or knew himself to be likely to cause

302 Whoever commits murder shall be punished with death, or rigorous imprisonment for life

Triable exclusively by the Chief Court Not Bailable Not Compoundable Police may arrest without warrant

304 Whoever commits culpable homicide not amounting to murder shall be punished with imprisonment for life, and shall also be liable to fine.

Triable by Court of the Faujdar. Not Bailable. Not Compoundable. Police may arrest without warrant.

Causing death by negligence

304A. Whoever causes the death of any person by doing any rash or negligent act not amounting to culpable homicide shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Triable by Magistrate of 1st Class Bailable. Compoundable. Police may arrest without warrant.

Abetment of suicide

306. If any person commits suicide, whoever abets the commission of such suicide, shall be punished with imprisonment of either description for a term which may

extend to ten years, and shall also be liable to fine

Triable by Court of the Faujdar Not Bailable Not Compoundable Police may arrest without warrant

307 Whoever attempts to commit murder shall be punished with imprisonment which may extend to imprisonment for life and shall also be liable to fine

omitted in Hindi

Triable by Court of Faujdar Not Bailable Not Compoundable Police may arrest without warrant.

309 Whoever attempts to commit suicide and does any act towards the commission of such offence, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both

Attempt to commit suicide

Triable by any Magistrate Bailable Not Compoundable. Police may arrest without warrant

310 Whoever, at any time after the passing of this Act, shall have been habitually associated with any other or others for the purpose of committing robbery or child-stealing by means of or accompanied with murder, is a thug

Thug

311 Whoever is a Thug shall be punished with imprisonment for life and shall also be liable to fine

Of the Causing of Miscarriage, of Injuries to unborn Children, of the Exposure of Infants, and of the Concealment of Births.

312 Whoever voluntarily causes a woman with child to miscarry, shall, if such mischrriage be not caused in good faith for the purpose of saving the life of the woman, be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both, and, if the woman be quick with child, shall be punished with inprisonment of either description for a term which may extend to seven years, and shall also be liable to fine

Causing miscarriage

Explanation —A woman who causes herself to miscarry, is within the meaning of this section

Triable by Court of the Faujdar Not Bailable Not Compoundable Police may not arrest without warrant.

314 Whoever with intent to cause the miscarriage of a woman with child, does any act which causes the death of such woman shall be punished with imprisonment which may extend to life and shall also be liable to fine

Triable by Court of the Faujdar Not Bailable Not Compoundable Police may not arrest without warrant

Exposure and abandonment of child under twelve years by parent or person having care of it

317 Whoever being the father or mother of a child under the age of twelve years or having the care of such child shall expose or leave such child in any place with the intention of wholly abandoning such child shall be punished with imprisonment of either description for a term which may extend to seven years or with fine or with both

Explanation —This section is not intended to prevent the trial of the offender for murder or culpable homicide, as the case may be, if the child die in consequence of the exposure

Triable by Magistrate of 1st Class Not Bailable Not Compoundable Police may arrest without warrant

Concealment of birth by secret disposal of dead body

318 Whoever by secretly burying or otherwise disposing of the dead body of a child, whether such child die before or after or during its birth intentionally conceals or endeavours to conceal the birth of such child shall be punished with imprisonment of either description for a term which may extend to two years, or with fine or with both

Triable by any Magistrate Bailable Not Compoundable Police may arrest without warrant

Of Hurt

Hurt

319 Whoever causes bodily pain disease, or infirmity to any person is said to cause hurt

Grievous hurt

320 The following kinds of hurt only are designated as "grievous —

First —Emasculation

Secondly —Permanent privation of the sight of either eye

Thirdly.—Permanent privation of the hearing of either ear.

Fourthly.—Privation of any member or joint.

Fifthly.—Destruction or permanent impairing of the powers of any member or joint.

Sixthly.—Permanent disfiguration of the head or face.

Seventhly.—Fracture or dislocation of a bone or tooth.

Eighthly.—Any hurt which endangers life or which causes the sufferer to be, during the space of twenty days, in severe bodily pain, or unable to follow his ordinary pursuits.

321 Whoever does any act with the intention of thereby causing hurt to any person, or with the knowledge that he is likely thereby to cause hurt to any person, and does thereby cause hurt to any person is said "voluntarily to cause hurt." Voluntarily causing hurt.

322 Whoever voluntarily causes hurt, if the hurt which he intends to cause or knows himself to be likely to cause is grievous hurt, and if the hurt which he causes is grievous hurt, is said "voluntarily to cause grievous hurt." Voluntarily causing grievous hurt.

Explanation.—A person is not said voluntarily to cause grievous hurt except when he both causes grievous hurt and intends or knows himself to be likely to cause grievous hurt. But he is said voluntarily to cause grievous hurt, if intending or knowing himself to be likely to cause grievous hurt of one kind, he actually causes grievous hurt of another kind.

Illustration

A, intending or knowing himself to be likely permanently to disfigure Z's face, gives Z a blow which does not permanently disfigure Z's face, but which causes Z to suffer severe bodily pain for the space of twenty days. A has voluntarily caused grievous hurt.

323 Whoever, except in the case provided for by section 334, voluntarily causes hurt, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both. Punishment for voluntarily causing hurt.

Triable by any Magistrate Bailable Compoundable. Police may not arrest without warrant

324 Whoever voluntarily causes hurt or grievous hurt by means of any instrument for shooting stabbing or cutting, or any instrument, which used as a weapon of offence is likely to cause death, or by means of fire or any heated substance, or by means of any poison, or any corrosive substance, or by means of any explosive substance, or by means of any substance which it is deleterious to the human body to inhale, swallow, or to receive into the blood, or by means of any animal shall be punished with imprisonment of either description that may extend to ten years and shall also be liable to fine.

Triable by Magistrates of the 1st Class Bailable. Compoundable with leave of the Court

Police may arrest without warrant

325 Whoever voluntarily causes grievous hurt shall be punished with imprisonment of either description which may extend to seven years, and shall also be liable to fine

Triable by Magistrates of 1st Class Bailable Compoundable with leave of the Court.

Police may arrest without warrant

Causing hurt by means of poison etc with intent to commit an offence

328 Whoever administers to or causes to be taken by any person any poison or any stupefying, intoxicating or unwholesome drug or other thing with intent to cause hurt to such person or with intent to commit or to facilitate the commission of an offence or knowing it to be likely that he will thereby cause hurt, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine

Triable by Court of the Faujdar Not Bailable Not Compoundable Police may arrest without warrant

Voluntarily causing hurt to extort confession or to compel restoration of property

330. Whoever voluntarily causes hurt, or grievous hurt for the purpose of extorting from the sufferer or any person interested in the sufferer any confession or any information which may lead to the detection of an offence or miscon-

duct, or for the purpose of constraining the sufferer or any person interested in the sufferer to restore or to cause the restoration of any property or valuable security or to satisfy any claim or demand, or to give information which may lead to the restoration of any property or valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine

Illustrations

(*a*) A, a police officer, tortures Z in order to induce Z to confess that he committed a crime A is guilty of an offence under this section

(*b*) A a Police officer, tortures B to induce him to point out where certain stolen property is deposited A is guilty of an offence under this section

(*c*) A, a revenue officer, tortures Z in order to compel him to pay certain arrears of revenue due from Z A is guilty of an offence under this section

(*d*) A, a zamindar, tortures raiyat in order to compel him to pay his rent A is guilty of an offence under this section

Triable by Magistrate 1st Class Bailable Not Compoundable Police may arrest without warrant

336 Whoever does any act so rashly or negligently as to endanger human life or the personal safety of others, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to two hundred and fifty rupees, or with both — Act endangering life or personal safety of others

Triable by any Magistrate Bailable Compoundable. Police may arrest without warrant.

338. Whoever causes hurt or grievous hurt to any person by doing any act so rashly or negligently as to endanger human life, or the personal safety of others, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine which may extend to one thousand rupees, or with both — Causing grievous hurt by act endangering life or personal safety of others

Triable by any Magistrate Bailable Compoundable with leave of the Court Police may arrest without warrant.

Of Wrongful Restraint and Wrongful Confinement

Wrongful restraint

339 Whoever voluntarily obstructs any person so as to prevent that person from proceeding in any direction in which that person has a right to proceed, is said wrongfully to restrain that person

Exception—The obstruction of a private way over land or water which a person in good faith believes himself to have a lawful right to obstruct, is not an offence within the meaning of the section

Illustration

A obstructs a path along which Z has a right to pass A not believing in good faith that he has a right to stop the path Z is thereby prevented from passing A wrongfully restrains Z

Wrongful confinement

340 Whoever wrongfully restrains any person in such a manner as to prevent that person from proceeding beyond certain circumscribing limits, is said "wrongfully to confine" that person

Illustration

(*a*) A causes Z to go within a walled space, and locks Z in Z is thus prevented from proceeding in any direction beyond the circumscribing line of wall A wrongfully confines Z

(*b*) A places men with firearms at the outlets of a building, and tells Z that they will fire at Z if Z attempts to leave the building. A wrongfully confines Z

Punishment for wrongful restraint

341 Whoever wrongfully restrains any person, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both.

Triable by any Magistrate Bailable Compoundable Police may not arrest without warrant

342. Whoever wrongfully confines any person shall be punished with imprisonment of either description that may extend to three years and shall also be liable to fine

Triable by Magistrate of 1st Class Bailable Not Compoundable Police may arrest without warrant

Of Criminal Force and Assault

Force

349 A person is said to use force to another if he causes motion, change of motion, or cessation of motion

to that other, or if he causes to any substance such motion, or change of motion, or cessation of motion as brings that substance into contact with any part of that other's body, or with anything which that other is wearing or carrying, or with anything so situated that such contact affects that other's sense of feeling Provided that the person causing the motion, or change of motion, or cessation of motion, causes that motion, change of motion, or cessation of motion in one of the three ways hereinafter described

First—By his own bodily power

Secondly—By disposing any substance in such a manner that the motion or change or cessation of motion takes place without any further act on his part, or on the part of any other person

Thirdly—By inducing any animal to move, to change its motion, or to cease to move.

350—Whoever intentionally uses force to any person, without that person's consent, in order to the committing of any offence or intending by the use of such force to cause, or knowing it to be likely that by the use of such force he will cause, injury, fear or annoyance to the person to whom the force is used, is said to use criminal force to that other Criminal force

Illustrations

(a) Z is sitting in a moored boat on a river A unfastens the moorings and thus intentionally causes the boat to drift down the stream Here A intentionally causes motion to Z, and he does this by disposing substances in such a manner that the motion is produced without any other act on any person's part A has therefore intentionally used force to Z and if he has done so without Z's consent in order to the committing of any offence, or intending or knowing it to be likely that this use of force will cause injury fear or annoyance to Z, A has used criminal force to Z

(b) Z is riding in a chariot A lashes Z's horses and thereby causes them to quicken their pace. Here A has caused change of motion to Z by inducing the animals to change their motion A has therefore used force to Z, and if A has done this without Z's consent intending or knowing it to be likely that he may thereby injure frighten or annoy Z A has used criminal force to Z.

(c) Z is riding in a palanquin. A intending to rob Z, seizes the pole, and stops the palanquin Here, A has caused cessation of motion to Z, and he has done this by his own bodily power. A has therefore used force to Z; and as A has acted thus intentionally, without Z's consent, in order to the commission of an offence, A has used criminal force to Z

(d) A intentionally pushes against Z in the street Here A has by his own bodily power moved his own person so as to bring it into contact with Z. He has therefore intentionally, used force to Z; and if he has done so without Z's consent, intending or knowing it to be likely that he may thereby injure, frighten or annoy Z he has used criminal force to Z.

(e) A throws a stone, intending or knowing it to be likely that the stone will be thus brought into contact with Z, or with Z's clothes, or with something carried by Z, or that it will strike water and dash up the water against Z's clothes, or something carried by Z. Here, if the throwing of the stone produce the effect of causing any substance to come into contact with Z, or Z's clothes, A has used force to Z, and if he did so without Z's consent, intending thereby to injure, frighten or annoy Z, he has used criminal force to Z

(f) A intentionally pulls up a woman's veil Here a intentionally uses force to her, and if he does so without her consent, intending or knowing it to be likely that he may thereby injure frighten or annoy her, he has used criminal force to her.

(g) Z is bathing A pours into the bath water which he knows to be boiling Here, A intentionally by his own bodily power causes such motion in the boiling water as brings that water into contact with Z, or with other water so situated that such contact must affect Z's sense of feeling A has therefore intentionally used force to Z, and if he has done this without Z's consent, intending or knowing it to be likely that he may thereby cause injury, fear or annoyance to Z, A has used criminal force

(h) A incites a dog to spring upon Z, without Z's consent. Here, if A intends to cause injury, fear or annoyance to Z, he uses criminal force to Z

Assault **351.** Whoever makes any gesture, or any preparation, intending or knowing it to be likely that such gesture or preparation will cause any person present to apprehend that he who makes that gesture or preparation is about to use criminal force to that person, is said to commit an assault.

Explanation.—Mere words do not amount to an assault. But the words which a person uses may give to his

gestures or preparations such a meaning as may make those gestures or preparations amount to an assault

Illustration

(a) A shakes his fist at Z intending or knowing it to be likely that he may thereby cause Z to believe that A is about to strike Z A has committed an assault

352 Whoever assaults or uses criminal force to any person otherwise than on grave and sudden provocation given by that person, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both

Punishment for assault or criminal force otherwise than on grave provocation

Explanation —Grave and sudden provocation will not mitigate the punishment for an offence under this section, if the provocation is sought or voluntarily provoked by the offender as an excuse for the offence, or

if the provocation is given by anything done in obedience to the law, or by a public servant, in the lawful exercise of the powers of such public servant, or

if the provocation is given by anything done in the lawful exercise of the right of private defence

Whether the provocation was grave and sudden enough to mitigate the offence, is a question of fact

Triable by any Magistrate Bailable Compoundable Police may not arrest without warrant

353 Whoever assaults or uses criminal force to any person being a public servant in the execution of his duty as such public servant, or with intent to prevent or deter that person from discharging his duty as such public servant, or in consequence of anything done or attempted to be done by such person in the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both

Assault or criminal force to deter public servant from discharge of his duty

Triable by Magistrate 1st Class Bailable Not Compoundable Police may arrest without warrant

Assault or criminal force to woman with intent to outrage her modesty

354 Whoever assaults or uses criminal force to any woman, intending to outrage or knowing it to be likely that he will thereby outrage her modesty, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both

Triable by any Magistrate. Bailable. Compoundable Police may arrest without warrant

OF KIDNAPPING, ABDUCTION, SLAVERY, AND FORCED LABOUR.

359. Kidnapping is of two kinds kidnapping from Marwar and kidnapping from lawful guardianship

360. Whoever conveys any person beyond the limits of Marwar without the consent of that person, legally authorised to consent on behalf of that person is said to kidnap that person from Marwar

Kidnapping from lawful guardianship

361. Whoever takes or entices any minor under fourteen years of age if a male, or under sixteen years of age if a female, or any person of unsound mind, out of the keeping of the lawful guardian of such minor or person of unsound mind, without the consent of such guardian, is said to kidnap such minor or person from lawful guardianship.

Explanation.—The words "lawful guardian" in this section include any person lawfully entrusted with the care or custody of such minor or other person

Exception—This section does not extend to the act of any person who in good faith believes himself to be the father of an illegitimate child, or who in good faith believes himself to be entitled to the lawful custody of such child, unless such act is committed for an immoral or unlawful purpose.

Abduction.

362. Whoever by force compels, or by any deceitful means induces, any person to go from any place, is said to abduct that person.

363 Whoever kidnaps any person from Marwar or from lawful guardianship shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine

Triable by Magistrate of 1st Class Not Bailable Not Compoundable Police may arrest without warrant

364 Whoever kidnaps or abducts any person in order that such person may be murdered or secretly confined shall be punished with imprisonment of either description that may extend to a term of seven years and shall also be liable to fine

Triable by Court of Faujdar Not Bailable. Not Compoundable Police may arrest without warrant

366 Whoever kidnaps or abducts any woman with intent that she may be compelled, or knowing it to be likely that she will be compelled, to marry any person against her will, or in order that she may be forced or seduced to illicit intercourse, or knowing it to be likely that she will be forced or seduced to illicit intercourse shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine

Kidnapping or abducting woman to compel her marriage etc

Triable by Court of Faujdar Not Bailable Not Compoundable Police may arrest without warrant

367 Whoever kidnaps or abducts any person in order that such person may be subjected, or may be so disposed of as to be put in danger of being subjected, to grievous hurt, or slavery, or to the unnatural lust of any person, or knowing it to be likely that such person will be so subjected or disposed of, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine

Kidnapping or abducting in order to subject person to grievous hurt slavery etc

Triable by Court of Faujdar. Not Bailable Not Compoundable Police may arrest without warrant

368 Whoever, knowing that any person has been kidnapped or has been abducted, wrongfully conceals or confines such person, shall be punished in the same manner as if he had kidnapped or abducted such person with the same intention or knowledge, or for the same purpose as that with or for which he conceals or detains such person in confinement

Wrongfully concealing or keeping in confinement, kidnapped or abducted person.

Kidnapping or abducting child under ten years with intent to steal from its person

369 Whoever kidnaps or abducts any child under the age of ten years with the intention of taking dishonestly any moveable property from the person of such child, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Triable by Court of Faujdar. Not Bailable Not Compoundable Police may arrest without warrant.

Buying or disposing of any person as slave

370. Whoever imports, exports, removes, buys, sells or disposes of any person as a slave, or accepts, receives or detains against his will any person as a slave, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine

Triable by Court of Faujdar Not Bailable Not Compoundable Police may arrest without warrant.

Selling minor for purposes of prostitution etc

372 Whoever sells, lets to hire, or otherwise disposes of any minor under the age of sixteen years with intent that such minor shall be employed or used for the purpose of prostitution or for any unlawful and immoral purpose, or knowing it to be likely that such minor will be employed or used for any such purpose, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Triable by Court of Faujdar Not Bailable Not Compoundable. Police may arrest without warrant.

Buying minor for purposes of prostitution etc

373 Whoever buys, hires or otherwise obtains possession of any minor under the age of sixteen years with intent that such minor shall be employed or used for the purpose of prostitution or for any unlawful and immoral purpose, or knowing it to be likely that such minor will be employed or used for any such purpose, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine

Triable by Court of Faujdar Not Bailable Not Compoundable Police may arrest without warrant

374 Whoever unlawfully compels any person to labour against the will of that person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both — Unlawful compulsory labour.

Triable by any Magistrate. Bailable Compoundable. Police may arrest without warrant.

Of Rape

375. A man is said to commit "rape" who, except in the case hereinafter excepted, has sexual intercourse with a woman under circumstances falling under any of the five following descriptions — Rape

First.—Against her will.

Secondly —Without her consent

Thirdly —With her consent, when her consent has been obtained by putting her in fear of death, or of hurt

Fourthly —With her consent, when the man knows that he is not her husband, and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married

Fifthly —With or without her consent, when she is under twelve years of age

Explanation —Penetration is sufficient to constitute the sexual intercourse necessary to the offence of rape

Exception —Sexual intercourse by a man with his own wife, the wife not being under twelve years of age, is not rape

376. Whoever commits rape shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine — Punishment for rape

Triable by Court of Faujdar. Not Bailable Compoundable with leave of Chief Court Police may arrest without warrant

Of Unnatural Offences

377 Whoever voluntarily has carnal intercourse against the order of nature with any man, woman or animal, shall be punished with transportation for life, or — Unnatural offences

with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine

Explanation —Penetration is sufficient to constitute the carnal intercourse necessary to the offence described in this section

Triable by Court of Faujdar Not Bailable Not Compoundable Police may arrest without warrant

CHAPTER XVII

Of Offences against Property

Of Theft

378 Whoever, intending to take dishonestly any moveable property out of the possession of any person without that person's consent, moves that property in order to such taking, is said to commit theft

Explanation 1 —A thing so long as it is attached to the earth, not being moveable property, is not the subject of theft, but it becomes capable of being the subject of theft as soon as it is severed from the earth

Explanation 2 —A moving effected by the same act which effects the severance may be a theft

Explanation 3 —A person is said to cause a thing to move by removing an obstacle which prevented it from moving or by separating it from any other thing, as well as by actually moving it

Explanation 4.—A person, who by any means causes an animal to move, is said to move that animal, and to move everything which, in consequence of the motion so caused, is moved by that animal

Explanation 5 —The consent mentioned in the definition may be expressed or implied, and may be given either by the person in possession, or by any person having for that purpose authority either expressed or implied

Illustrations

(a) A cuts down a tree on Z s ground with the intention of dishonestly taking the tree out of Z s possession without Z s consent Here, as soon as A has severed the tree in order to such taking, he has committed theft

(*b*) A puts a bait for dogs in his pocket, and thus induces *Z*'s dog to follow it. Here, if A's intention be dishonestly to take the dog out of Z's possession without Z's consent, A has committed theft as soon as Z's dog has begun to follow A

(*c*) A meets a bullock carrying a box of treasure He drives the bullock in a certain direction, in order that he may dishonestly take the treasure As soon as the bullock begins to move, A has committed theft of the treasure

(*d*) A being Z's servant, and entrusted by Z with the care of Z's plate, dishonestly runs away with the plate, without Z's consent A has committed theft

(*e*) Z, going on a journey, entrusts his plate to A, the keeper of a warehouse, till Z shall return. A carries the plate to a goldsmith and sells it Here the plate was not in Z's possession It could not therefore be taken out of Z's possession and A has not committed theft, though he may have committed criminal breach of trust

(*f*) A finds a ring belonging to Z on a table in the house which Z occupies Here the ring is in Z's possession, and if A dishonestly removes it, A commits theft

(*g*) A finds a ring lying on the high road, not in the possession of any person A by taking it, commits no theft though he may commit criminal misappropriation of property

(*h*) A sees a ring belonging to Z lying on a table in Z's house. Not venturing to misappropriate the ring immediately for fear of search and detection, A hides the ring in a place where it is highly improbable that it will ever be found by Z with the intention of taking the ring from the hiding place and selling it when the loss is forgotten. Here A, at the time of first moving the ring, commits theft

(*i*) A delivers his watch to Z, a jeweller, to be regulated Z carries it to his shop A, not owing to the jeweller any debt for which the jeweller might lawfully detain the watch as a security enters the shop openly, takes his watch by force out of Z's hand and carries it away. Here A, though he may have committed criminal trespass and assault, has not committed theft inasmuch as what he did was not done dishonestly

(*j*) If A owes money to Z for repairing the watch and if Z retains the watch lawfully as a security for the debt, and A takes the watch out of Z's possession with the intention of depriving Z of the property as a security for his debt he commits theft inasmuch as he takes it dishonestly

(*k*) Again if A, having pawned his watch to Z takes it out of Z's possession without Z's consent, not having paid what he borrowed on the watch he commits theft, though the watch is his own property, inasmuch as he takes it dishonestly

(*l*) A takes an article belonging to Z out of Z s possession without Z's consent, with the intention of keeping it until he obtains money from Z as a reward for its restoration Here A takes dishonestly; A has therefore committed theft

(*m*) A, being on friendly terms with Z, goes into Z's library in Z's absence, and takes away a book without Z s express consent for the purpose merely of reading it, and with the intention of returning it. Here, it is probable that A may have conceived that he had Z s implied consent to use Z s book. If this was A's impression, A has not committed theft

(*n*) A asks charity from Z s wife She gives A money, food and clothes, which A knows to belong to Z, her husband Here it is probable that A may conceive that Z s wife is authorized to give away alms. If this was A s impression, A has not committed theft

(*o*) A is the paramour of Z's wife She gives A valuable property, which A knows to belong to her husband Z, and to be such property as she has not authority from Z to give If A takes the property dishonestly, he commits theft.

(*p*) A, in good faith, believing property belonging to Z to be A's own property, takes that property out of B's possession Here, as A does not take dishonestly, he does not commit theft.

379 Whoever commits theft shall be liable to imprisonment of either description for a term that may extend to seven years, and shall also be liable to fine.

Triable by any Magistrate. Not Bailable. Not Compoundable. Police may arrest without warrant if property is worth more than 5/–

Of Extortion.

Extortion.

383. Whoever intentionally puts any person in fear of any injury to that person, or to any other, and thereby dishonestly induces the person so put in fear to deliver to any person any property or valuable security or anything signed or sealed which may be converted into a valuable security, commits " extortion."

Illustrations.

(*a*) A threatens to publish a defamatory libel concerning Z unless Z gives him money. He thus induces Z to give him money. A has committed extortion.

(*b*) A threatens Z that he will keep Z's child in wrongful confinement unless Z will sign and deliver to A a promissory note binding Z to pay certain money to A. Z signs and delivers the note. A has committed extortion

(c) A threatens to send club men to plough up Z's field unless Z will sign and deliver to B a bond binding Z under a penalty to deliver certain produce to B and thereby induces Z to sign and deliver the bond A has committed extortion

(d) A, by putting Z in fear of grievous hurt, dishonestly induces Z to sign or affix his seal to a blank paper and deliver it to A Z signs and delivers the paper to A Here as the paper so signed may be converted into a valuable security, A has committed extortion

384 Whoever commits extortion shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine

Triable by Magistrate of 1st Class Not Bailable Not Compoundable Police may not arrest without warrant

Of Robbery and Dacoity

390 In all robbery there is either theft or extortion — Robbery

Theft is "robbery" if, in order to the committing of the theft, or in committing the theft, or in carrying away or attempting to carry away property obtained by the theft, the offender, for that end, voluntarily causes or attempts to cause to any person death or hurt or wrongful restraint, or fear of instant death or of instant hurt, or of instant wrongful restraint — When theft is robbery

Extortion is "robbery" if the offender, at the time of committing the extortion, is in the presence of the person put in fear, and commits the extortion by putting that person in fear of instant death, of instant hurt, or of instant wrongful restraint to that person, or to some other person, and, by so putting in fear, induces the person so put in fear then and there to deliver up the thing extorted — When extortion is robbery

Explanation —The offender is said to be present if he is sufficiently near to put the other person in fear of instant death, of instant hurt, or of instant wrongful restraint

Illustrations

(a) A holds Z down and fraudulently takes Z's money and jewels from Z's clothes without Z's consent Here A has committed theft and in order to the committing of that theft has voluntarily caused wrongful restraint to Z A has therefore committed robbery,

(b) A meets Z on the high road, shows a pistol and demands Z's purse Z, in consequence surrenders his purse Here A has extorted the purse from Z by putting him in fear of instant hurt, and being at the time of committing the extortion in his presence A has therefore committed robbery

(c) A meets Z and Z's child on the high road A takes the child, and threatens to fling it down a precipice, unless Z delivers his purse Z, in consequence, delivers his purse Here A has extorted the purse from Z, by causing Z to be in fear of instant hurt to the child who is there present A has therefore committed robbery on Z

(d) A obtains property from Z by saying—"Your child is in the hands of my gang and will be put to death unless you send us ten thousand rupees This is extortion and punishable as such but it is not robbery, unless Z is put in fear of the instant death of his child

Dacoity **391** When five or more persons conjointly commit or attempt to commit a robbery, or where the whole number of persons conjointly committing or attempting to commit a robbery, and persons present and aiding such commission or attempt, amount to five or more, every person so committing, attempting or aiding, is said to commit "dacoity."

392. Whoever commits robbery shall be punished with imprisonment of either description that may extend to imprisonment for life and shall also be liable to fine.

Triable by Magistrate 1st Class Not Bailable. Not Compoundable Police may arrest without warrant

393 Whoever attempts to commit robbery shall be punished with imprisonment of either description for a term that may extend to seven years and shall be liable to fine

Triable by Magistrate 1st Class Not Bailable Not Compoundable. Police may arrest without warrant

395 Whoever commits dacoity sahll be punished with imprisonment which may extend to imprisonment for life, and shall also be liable to fine.

Triable by Court of Faujdar Not Bailable Not Compoundable Police may arrest without warrant

401 Whoever at any time after the passing of this Act shall belong to any wandering or other gang of persons associated for the purpose of committing theft, robbery or dacoity shall be punished with a term of imprisonment of either description that may extend to imprisonment for life and shall also be liable to fine

Triable by Court of Faujdar Not Bailable Not Compoundable Police may arrest without warrant

Of Criminal Misappropriation of Property

403 Whoever dishonestly misappropriates or converts to his own use any moveable property, shall be punished with imprisonment of either description for a term which may extend to two years or with fine or with both — Dishonest misappropriation of property

Triable by any Magistrate Bailable Not Compoundable Police may not arrest without warrant

Illustration

(a) A takes property belonging to Z out of Z's possession in good faith, believing at the time when he takes it that the property belongs to himself A is not guilty of theft but if A after discovering his mistake dishonestly appropriates the property to his own use he is guilty of an offence under this section

(b) A being on friendly terms with Z goes into Z's library in Z's absence and takes away a book without Z's express consent Here, if A was under the impression that he had Z's implied consent to take the book for the purpose of reading it, A has not committed theft. But, if A afterwards sells the book for his own benefit, he is guilty of an offence under this section

(c) A and B being joint owners of a horse A takes the horse out of B's possession intending to use it Here as A has a right to use the horse, he does not dishonestly misappropriate it But, if A sells the horse and appropriates the whole proceeds to his own use, he is guilty of an offence under this section

Explanation I—A dishonest misappropriation for a time only is a misappropriation within the meaning of this section

Illustration

A finds a Government promissory note belonging to Z bearing a blank endorsement A knowing that the note belongs to Z pledges it with a banker as a security for a loan intending at a future time to restore it to Z A has committed an offence under this section

Explanation 2—A person who finds property not in the possession of any other person, and takes such property for the purpose of protecting it for, or of restoring it to, the owner, does not take or misappropriate it dishonestly, and is not guilty of an offence, but he is guilty of the offence above defined, if he appropriates it to his own use, when he knows or has the means of discovering the owner, or before he has used reasonable mesns to discover and give notice to the owner and has kept the property a reasonable time to enable the owner to claim it

What are reasonable means or what is a reasonable time in such a case, is a question of fact

It is not necessary that the finder should know who is the owner of the property, or that any particular person is the owner of it it is sufficient if, at the time of appropriating it, he does not believe it to be his own property, or in good faith believes that the real owner cannot be found

Illustrations

(*a*) A finds a rupee on the high road, not knowing to whom the rupee belongs. A picks up the rupee Here A has not committed the offence defined in this section.

(*b*) A finds a letter on the road, containing a bank note From the direction and contents of the letter he learns to whom the note belongs He appropriates the note. He is guilty of an offence under this section

(*c*) A finds a cheque payable to bearer He can form no conjecture as to the person who has lost the cheque But the name of the person, who has drawn the cheque, appears A knows that this person can direct him to the person in whose favour the cheque was drawn A appropriates the cheque without attempting to discover the owner He is guilty of an offence under this section

(*d*) A sees Z drop his purse with money in it A picks up the purse with the intention of restoring it to Z but afterwards appropriates it to his own use A has committed an offence under this section

(*e*) A finds a purse with money, not knowing to whom it belongs, he afterwards discovers that it belongs to Z, and appropriates it to his own use A is guilty of an offence under this section

(*f*) A finds a valuable ring, not knowing to whom it belongs A sells it immediately without attempting to discover the owner A is guilty of an offence under this section

404. Whoever dishonestly misappropriates or converts to his own use property, knowing that such property was in the possession of a deceased person at the time of that person's decease, and has not since been in the possession, of any person legally entitled to such possession shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine, and, if the offender at the time of such person's decease was employed by him as a clerk or servant, the imprisonment may extend to seven years

Dishonest misappropriation of property possessed by deceased person at the time of his death

Illustration.

Z dies in possession of furniture and money. His servant A, before the money comes into the possession of any person entitled to such possession dishonestly misappropriates it A has committed the offence defined in this section

Triable by Magistrate 1st Class Bailable. Not Compoundable Police may not arrest without warrant.

Of Criminal Breach of Trust

405 Whoever, being in any manner entrusted with property, or with any dominion over property, dishonestly misappropriates or converts to his own use that property, or dishonestly uses or disposes of that property in violation of any direction of law prescribing the mode in which such trust is to be discharged, or of any legal contract, express or implied, which he has made touching the discharge of such trust, or wilfully suffers any other person so to do, commits "criminal breach of trust"

Criminal breach of trust.

(a) A, being executor to the will of a deceased person, dishonestly disobeys the law which directs him to divide the effects according to the will, and appropriates them to his own use. A has committed criminal breach of trust

(b) A is a warehouse-keeper Z, going on a journey, entrusts his furniture to A, under a contract that it shall be returned on payment of a stipulated sum for warehouse room. A dishonestly sells the goods. A has committed criminal breach of trust

(c) A, residing in Calcutta, is agent for Z, residing at Delhi. There is an express or implied contract between A and Z that all sums remitted by Z to A shall be invested by A according to Z's direction. Z remits a lakh of rupees to A, with directions to A to invest the same

in Company's paper. A dishonestly disobeys the directions, and employs the money in his own business. A has committed criminal breach of trust.

(d) But if A, in the last illustration, not dishonestly but in good faith, believing that it will be more for Z's advantage to hold shares in the Bank of Bengal, disobeys Z's directions, and buys shares in the Bank of Bengal, for Z, instead of buying Company's paper, here, though Z should suffer loss, and should be entitled to bring a civil action against A on account of that loss, yet A, not having acted dishonestly has not committed criminal breach of trust.

(e) A, a Revenue officer, is entrusted with public money and is either directed by law, or bound by a contract, express or implied, with the Government to pay into a certain treasury all the public money which he holds. A dishonestly appropriates the money. A has committed criminal breach of trust.

(f) A, a carrier, is entrusted by Z with property to be carried by land or by water A dishonestly misappropriates the property. A has committed criminal breach of trust

406 Whoever commits criminal breach of trust shall be punished with imprisonment of either description that may extend to a term of seven years and shall also be liable to fine.

Triable by any Magistrate. Not Bailable. Not Compoundable Police may ~~not~~ arrest without warrant.

Of the receiving of Stolen Property.

Stolen property.

410 Property, the possession whereof has been transferred by theft, or by extortion, or by robbery, and property which has been criminally misappropriated or in respect of which criminal breach of trust has been committed, is designated as "stolen property," whether the transfer has been made, or the misappropriation or breach of trust has been committed, within or without British India. But, if such property subsequently comes into the possession of a person legally entitled to the possession thereof, it then ceases to be stolen property

Ceating.

411. Whoever dishonestly receives, retains voluntarily assists in concealing or disposing of or making away with property knowing or having reason to believe to be stolen property shall be punished with imprisonment of either

description that may extend to a term of ten years and shall also be liable to fine

Triable by any Magistrate Not Bailable Not Compoundable Police may arrest without warrant.

Of Cheating

415 Whoever, by deceiving any person, fraudulently or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property, or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind reputation or property, is said to "cheat — Cheating

Explanation —A dishonest concealment of facts is a deception within the meaning of this section

Illustrations

(a) A by falsely pretending to be in the Civil Service, intentionally deceives Z, and thus dishonestly induces Z to let him have on credit goods for which he does not mean to pay A cheats

(b) A, by putting a counterfeit mark on an article intentionally deceives Z into a belief that this article was made by a certain celebrated manufacturer and thus dishonestly induces Z to buy and pay for the article A cheats

(c) A, by exhibiting to Z a false sample of an article, intentionally deceives Z into believing that the article corresponds with the sample and thereby dishonestly induces Z to buy and pay for the article. A cheats

(d) A by tendering in payment for an article a bill on a house with which A keeps no money, and by which A expects that the bill will be dishonoured intentionally deceives Z and thereby dishonestly induces Z to deliver the article intending not to pay for it A cheats.

(e) A by pledging as diamonds articles which he knows are not diamonds intentionally deceives Z, and thereby dishonestly induces Z to lend money A cheats

(f) A intentionally deceives Z into a belief that A means to repay any money that Z may lend to him and thereby dishonestly induces Z to lend him money, A not intending to repay it A cheats

(g) A intentionally deceives Z into a belief that A means to deliver to Z a certain quantity of indigo plant which he does not intend to deliver and thereby dishonestly induces Z to advance money upon the faith of such delivery A cheats but if A at the

time of obtaining the money, intends to deliver the indigo plant, and afterwards breaks his contract and does not deliver it, he does not cheat, but is liable only to a civil action for breach of contract.

(*h*) A intentionally deceives Z into a belief that A has performed A's part of a contract made with Z, which he has not performed, and thereby dishonestly induces Z to pay money. A cheats.

(*i*) A sells and conveys an estate to B A, knowing that in consequence of such sale he has no right to the property, sells or mortgages the same to Z, without disclosing the fact of the previous sale and conveyance to B, and receives the purchase or mortgage money from Z A cheats

Cheating by personation

416 A person is said to "cheat by personation" if he cheats by pretending to be some other person, or by knowingly substituting one person for another, or representing that he or any other person is a person other than he or such other person really is.

Explanation.—The offence is committed whether the individual personated is a real or imaginary person

Illustrations

(*a*) A cheats by pretending to be a certain rich banker of the same name A cheats by personation

(*b*) A cheats by pretending to be B, a person who is deceased. A cheats by personation.

Cheating and dishonestly inducing delivery of property

420. Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Triable by any Magistrate Bailable. Not Compoundable Police may arrest without warrant.

Of Fraudulent Deeds and Dispositions of Property.

Dishonest or fraudulent removal or concealment of property to prevent distribution among creditors

421. Whoever dishonestly or fraudulently removes, conceals or delivers to any person, or transfers or causes to be transferred to any person, without adequate consideration, any property, intending thereby to prevent, or knowing it to be likely that he will thereby prevent, the distribution of that property according to law among his

creditors or the creditors of any other person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Triable by any Magistrate. Bailable Not Compoundable. Police may not arrest without warrant.

422. Whoever dishonestly or fraudulently prevents any debt or demand due to himself or to any other person from being made available according to law for payment of his debts or the debts of such other person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Dishonestly or fraudulently preventing debt being available for creditors

Triable by any Magistrate. Bailable Not Compoundable. Police may not arrest without warrant.

423 Whoever dishonestly or fraudulently signs, executes or becomes a party to any deed or instrument which purports to transfer or subject to any charge, any property, or any interest therein, and which contains any false statement relating to the consideration for such transfer or charge, or relating to the person or persons for whose use or benefit it is really intended to operate, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Dishonest or fraudulent execution of deed of transfer containing false statement of consideration

Triable by any Magistrate Bailable Not Compoundable. Police may not arrest without warrant.

424. Whoever dishonestly or fraudulently conceals or removes any property of himself or any other person, or dishonestly or fraudulently assists in the concealment or removal thereof, or dishonestly releases any demand or claim to which he is entitled, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Dishonest or fraudulent removal or concealment of property.

Triable by any Magistrate Bailable Not Compoundable Police may not arrest without warrant

Of Mischief

Mischief

425 Whoever, with intent to cause, or knowing that he is likely to cause, wrongful loss or damage to the public or to any person, causes the destruction of any property, or any such change in any property or in the situation thereof as destroys or diminishes its value or utility, or affects it injuriously, commits "mischief"

Explanation 1—It is not essential to the offence of mischief that the offender should intend to cause loss or damage to the owner of the property injured or destroyed It is sufficient if he intends to cause, or knows that he is likely to cause, wrongful loss or damage to any person by injuring any property, whether it belongs to that person or not

Explanation 2—Mischief may be committed by an act affecting property belonging to the person who commits the act, or to that person and others jointly

Illustrations

(*a*) A voluntarily burns a valuable security belonging to Z intending to cause wrongful loss to Z A has committed mischief

(*b*) A introduces water into an ice house belonging to Z, and thus causes the ice to melt, intending wrongful loss to Z A has committed mischief

(*c*) A voluntarily throws into a river a ring belonging to Z, with the intention of thereby causing wrongful loss to Z A has committed mischief

(*d*) A knowing that his effects are about to be taken in execution in order to satisfy a debt due from him to Z, destroys those effects with the intention of thereby preventing Z from obtaining satisfaction of the debt, and of thus causing damage to Z A has committed mischief

(*e*) A having insured a ship voluntarily causes the same to be cast away, with the intention of causing damage to the underwriters A has committed mischief

(*f*) A causes a ship to be cast away, intending thereby to cause damage to Z who has lent money on bottomry on the ship A has committed mischief

(*g*) A, having joint property with Z in a horse shoots the horse intending thereby to cause wrongful loss to Z A has committed mischief

(h) A causes cattle to enter upon a field belonging to Z intending to cause and knowing that he is likely to cause damage to Z's crop A has committed mischief

426 Whoever commits mischief shall be punished with imprisonment of either description for a term which may extend to three months or with fine, or with both

Punishment for mischief

Triable by any Magistrate Bailable Compoundable Police may not arrest without warrant

427 Whoever commits mischief and thereby causes loss or damage to the amount of fifty rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both

Mischief causing damage to the amount of fifty rupees.

Triable by any Magistrate Bailable Compoundable Police may not arrest without warrant

428 Whoever commits mischief by killing, poisoning, maiming or rendering useless any animal or animals of the value of ten rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both

Mischief by killing or maiming *animal* of the value of ten rupees

Triable by any Magistrate Bailable Compoundable Police may arrest without warrant

429 Whoever commits mischief by killing poisoning, maiming or rendering useless any elephant, camel, horse, bull bullock cow or calf shall be punished with imprisonment of either description that may extend to a term of two years and shall also be liable to fine

429A Whoever voluntarily kills or injures any peacock, Amar Bakra or She-goat shall be punished with imprisonment of either description which may extend to six months, or with fine or both

Triable by any Magistrate Bailable Compoundable (except voluntary injury to any bull, cow, calf, peacock, Amar Bakra or She goat) Police may arrest without warrant

Mischief by injury to works of irrigation or by wrongfully diverting water

430 Whoever commits mischief by doing any act which causes, or which he knows to be likely to cause, a diminution of the supply of water for agricultural purposes, or for food or drink for human beings or for animals which are property, or for cleanliness or for carrying on any manufacture, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both

Triable by any Magistrate Bailable Compoundable Police may arrest without warrant

Mischief by destroying or moving etc a land mark fixed by public authority

434 Whoever commits mischief by destroying or moving any land mark fixed by the authority of a public servant, or by any act which renders such land mark less useful as such, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both

Triable by any Magistrate Bailable Compoundable. Police may not arrest without warrant

435 Whoever commits mischief by fire or any explosive substance shall be punished with imprisonment of either description that may extend to a term of imprisonment for life, or to fine, or both

Triable by Magistrate 1st Class Not Bailable Not Compoundable Police may arrest without warrant

Of Criminal Trespass

Criminal trespass

441 Whoever enters into or upon property in the possession of another with intent to commit an offence or to intimidate, insult or annoy any person in possession of such property,

or, having lawfully entered into or upon such property, unlawfully remains there with intent thereby to intimidate, insult or annoy any such person, or with intent to commit an offence,

is said to commit "criminal trespass"

House-trespass

442 Whoever commits criminal trespass by entering into or remaining in any building, tent or vessel used as a human dwelling, or any building used as a place for

worship, or as a place for the custody of property, is said to commit "house-trespass."

Explanation—The introduction of any part of the criminal trespasser's body is entering sufficient to constitute house trespass

443. Whoever commits house-trespass having taken precautions to conceal such house-trespass from some person who has a right to exclude or eject the trespasser from the building, tent or vessel which is the subject of the trespass, is said to commit "lurking house-trespass." Lurking house-trespass.

444 Whoever commits lurking house trespass after sunset and before sunrise, is said to commit "lurking house-trespass by night" Lurking house-trespass by night

445 A person is said to commit "house-breaking" who commits house trespass if he effects his entrance into the house or any part of it in any of the six ways hereinafter described, or if, being in the house or any part of it for the purpose of committing an offence, or, having committed an offence therein, he quits the house or any part of it in any of such six ways, that is to say — House breaking

First—If he enters or quits through a passage made by himself, or by any abettor of the house-trespass, in order to the committing of the house-trespass

Secondly—If he enters or quits through any passage not intended by any person, other than himself or an abettor of the offence, for human entrance, or through any passage to which he has obtained access by scaling or climbing over any wall or building

Thirdly—If he enters or quits through any passage which he or any abettor of the house-trespass has opened, in order to the committing of the house-trespass by any means by which that passage was not intended by the occupier of the house to be opened



Fourthly—If he enters or quits by opening any lock in order to the committing of the house trespass, or in order to the quitting of the house after a house-trespass

Fifthly—If he effects his entrance or departure by using criminal force or committing an assault, or by threatening any person with assault

Sixthly.—If he enters or quits by any passage which he knows to have been fastened against such entrance or departure, and to have been unfastened by himself or by an abettor of the house-trespass

Explanation—Any out house, or building occupied with a house and between which and such house there is an immediate internal communication, is part of the house within the meaning of this section

Illustrations

(*a*) A commits house trespass by making a hole through the wall of Z s house, and putting his hand through the aperture This is house breaking

(*b*) A commits house trespass by creeping into a ship at a port hole between decks This is house breaking

(*c*) A commits house-trespass by entering Z s house through a window This is house breaking

(*d*) A commits house-trespass by entering Z s house through the door, having opened a door which was fastened This is house breaking

(*e*) A commits house trespass by entering Z's house through the door, having lifted a latch by putting a wire through a hole in the door This is house breaking

(*f*) A finds the key of Z's house door, which Z had lost, and commits house trespass by entering Z s house, having opened the door with that key This is house-breaking

(*g*) Z is standing in his doorway. A forces a passage by knocking Z down and commits house trespass by entering the house This is house-breaking

(*h*) Z, the doorkeeper of Y, is standing in Y s doorway A commits house-trespass by entering the house, having deterred Z from opposing him by threatening to beat him This is house breaking

446 Whoever commits house-breaking after sun-set and before sunrise, is said to commit "house breaking by night." House-breaking by night

447 Whoever commits criminal trespass shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both Punishment for criminal trespass

Triable by any Magistrate. Bailable Compoundable Police may not arrest without warrant.

454 Whoever commits lurking house trespass or house-breaking, in order to the committing of any offence punishable with imprisonment, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine, and, if the offence intended to be committed is theft, the term of the imprisonment may be extended to ten years. Lurking house trespass or house-breaking in order to commit offence punishable with imprisonment

Triable by any Magistrate Not Bailable. Not Compoundable. Police may arrest without warrant.

457. Whoever commits lurking house-trespass by night, or house-breaking by night, in order to the committing of any offence punishable with imprisonment, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine, and, if the offence intended to be committed is theft, the term of the imprisonment may be extended to fourteen years Lurking house trespass or house breaking by night in order to commit offence punishable with imprisonment

Triable by any Magistrate. Not Bailable. Not Compoundable. Police may arrest without warrant.

CHAPTER XVIII.

OF OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY MARKS

463. Whoever makes any false document or part of a document, with intent to cause damage or injury to the public or to any person, or to support any claim or title, or to cause any person to part with property, or to enter into any express or implied contract, or with intent to commit fraud or that fraud may be committed, commits forgery. Forgery.

Making a false document

464 A person is said to make a false document—

First—Who dishonestly or fraudulently makes, signs seals or executes a document or part of a document, or makes any mark denoting the execution of a document, with the intention of causing it to be believed that such document or part of a document was made, signed, sealed or executed by or by the authority of a person by whom or by whose authority he knows that it was not made, signed, sealed or executed, or at a time at which he knows that it was not made signed, sealed or executed, or

Secondly—Who, without lawful authority, dishonestly or fraudulently, by cancellation or otherwise, alters a document in any material part thereof, after it has been made or executed either by himself or by any other person, whether such person be living or dead at the time of such alteration, or

Thirdly—Who dishonestly or fraudulently causes any person to sign, seal, execute or alter a document, knowing that such person by reason of unsoundness of mind or intoxication cannot, or that by reason of deception practised upon him he does not, know the contents of the document or the nature of the alteration

Illustrations

(a) A has a letter of credit upon B for rupees 10,000, written by Z. A, in order to defraud B, adds a cipher to the 10,000, and makes the sum 1,00,000, intending that it may be believed by B that Z so wrote the letter. A has committed forgery.

(b) A, without Z's authority, affixes Z's seal to a document purporting to be a conveyance of an estate from Z to A, with the intention of selling the estate to B, and thereby of obtaining from B the purchase money. A has committed forgery

(c) A picks up a cheque on a banker signed by B, payable to bearer, but without any sum having been inserted in the cheque. A fraudulently fills up the cheque by inserting the sum of ten thousand rupees. A commits forgery

(d) A leaves with B, his agent, a cheque on a banker, signed by A, without inserting the sum payable and authorizes B to fill up the cheque by inserting a sum not exceeding ten thousand rupees for the purpose of making certain payments B fraudulently fills up the cheque by inserting the sum of twenty thousand rupees B commits forgery

(e) A draws a bill of exchange on himself in the name of B without B s authority, intending to discount it as a genuine bill with a banker and intending to take up the bill on its maturity Here as A draws the bill with intent to deceive the banker by leading him to suppose that he had the security of B, and thereby to discount the bill, A is guilty of forgery.

(f) Z's will contains these words—"I direct that all my remaining property be equally divided between A, B and C" A dishonestly scratches out B s name, intending that it may be believed that the whole was left to himself and C A has committed forgery

(g) A endorses a Government promissory note and makes it payable to Z or his order by writing on the bill the words "Pay to Z or his order' and signing the endorsement B dishonestly erases the words "Pay to Z or his order, and thereby converts the special endorsement into a blank endorsement B commits forgery.

(h) A sells and conveys an estate to Z A afterwards, in order to defraud Z of his estate, executes a conveyance of the same estate to B, dated six months earlier than the date of the conveyance to Z, intending it to be believed that he had conveyed the estate to B before he conveyed it to Z A has committed forgery

(i) Z dictates his will to A A intentionally writes down a different legatee from the legatee named by Z, and by representing to Z that he has prepared the will according to his instructions, induces Z to sign the will A has committed forgery.

(j) A writes a letter and signs it with B s name without B s authority, certifying that A is a man of good character and in distressed circumstances from unforeseen misfortune, intending by means of such letter to obtain alms from Z and other persons Here, as A made a false document in order to induce Z to part with property, A has committed forgery.

(k) A without B's authority writes a letter and signs it in B s name certifying to A's character, intending thereby to obtain employment under Z. A has committed forgery, inasmuch as he intended to deceive Z by the forged certificate, and thereby to induce Z to enter into an express or implied contract for service

Explanation 1.—A man's signature of his own name may amount to forgery.

Illustrations

(*a*) A signs his own name to a bill of exchange, intending that it may be believed that the bill was drawn by another person of the same name A has committed forgery.

(*b*) A writes the word 'accepted on a piece of paper and signs it with Z s name in order that B may afterwards write on the paper a bill of exchange drawn by B upon Z, and negotiate the bill as though it had been accepted by Z A is guilty of forgery, and if B, knowing the fact draws the bill upon the paper pursuant to A s intention B is also guilty of forgery

(*c*) A picks up a bill of exchange payable to the order of a different person of the same name A endorses the bill in his own name, intending to cause it to be believed that it was endorsed by the person to whose order it was payable here A has committed forgery

(*d*) A purchases an estate sold under execution of a decree against B B, after the seizure of the estate in collusion with Z, executes a lease of the estate to Z at a nominal rent and for a long period, and dates the lease six months prior to the seizure, with intent to defraud A and to cause it to be believed that the lease was granted before the seizure B, though he executes the lease in his own name, commits forgery by antedating it

(*e*) A a trader, in anticipation of insolvency, lodges effects with B for A s benefit and with intent to defraud his creditors and in order to give a colour to the transaction, writes a promissory note binding himself to pay to B a sum for value received, and antedates the note, intending that it may be believed to have been made before A was on the point of insolvency A has committed forgery under the first head of the definition

Explanation 2—The making of a false document in the name of a fictitious person, intending it to be believed that the document was made by a real person, or in the name of a deceased person, intending it to be believed that the document was made by the person in his lifetime, may amount to forgery

Illustration

A draws a bill of exchange upon a fictitious person and fraudulently accepts the bill in the name of such fictitious person with intent to negotiate it A commits forgery

Punishment for forgery

465 Whoever commits forgery shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both

Triable by Magistrate of 1st Class Bailable. Not Compoundable. Police may not arrest without warrant

466 Whoever forges a document, purporting to be a record or proceeding of or in a Court of Justice, or a register of birth, baptism, marriage or burial, or a register kept by a public servant as such, or a certificate or document purporting to be made by a public servant in his official capacity, or an authority to institute or defend a suit, or to take any proceedings therein, or to confess judgment, or a power of attorney, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine

Forgery of record of Court or of public register etc

Triable by Magistrate of 1st Class Bailable Not Compoundable Police may not arrest without warrant

467 Whoever forges a document which purports to be a valuable security or a will, or an authority to adopt a son, or which purports to give authority to any person to make or transfer any valuable security, or to receive the principal, interest or dividends thereon, or to receive or deliver any money, moveable property or valuable security, or any document purporting to be an acquittance or receipt acknowledging the payment of money or an acquittance or receipt for the delivery of any moveable property or valuable security, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine

Forgery of valuable security, will etc

Triable by Magistrate 1st Class Bailable. Not Compoundable Police may not arrest without warrant

468 Whoever commits forgery, intending that the document forged shall be used for the purpose of cheating, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine

Forgery for purpose of cheating

Triable by Magistrate 1st Class. Bailable Not Compoundable. Police may not arrest without warrant

469. Whoever commits forgery intending that the document forged shall harm the reputation of any party, or knowing that it is likely to be used for that purpose, shall be punished with imprisonment of either description

for a term which may extend to three years, and shall also be liable to fine

Triable by Magistrate 1st Class Bailable Not Compoundable Police may not arrest without warrant.

Forged document

470 A false document made wholly or in part by forgery is designated "a forged document"

Using as genuine a forged document

471 Whoever fraudulently or dishonestly uses as genuine any document which he knows or has reason to believe to be a forged document, shall be punished in the same manner as if he had forged such document

Falsification of accounts.

477A. Whoever, being a clerk, officer or servant, or employed or acting in the capacity of a clerk, officer or servant, wilfully, and with intent to defraud, destroys, alters, mutilates or falsifies any book, paper, writing, valuable security or account which belongs to or is in the possession of his employer, or has been received by him for or on behalf of his employer, or wilfully, and with intent to defraud, makes or abets the making of any false entry in or omits or alters or abets the ommision or alteration of any material particular from or in, any such book, paper, writing, valuable security or account, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both

Explanation—It shall be sufficient in any charge under this section to allege a general intent to defraud without naming any particular person intended to be defrauded or specifying any particular sum of money intended to be the subject of the fraud, or any particular day on which the offence was committed

Triable by Magistrate 1st Class Bailable. Not Compoundable Police may not arrest without warrant

Of Trade, Property and Other Marks

Trade mark

478 A mark used for denoting that goods are the manufacture or merchandise of a particular person is called a trade mark,

and for the purposes of this Code the expression "trade mark" includes any trade mark which is registered in the register of trade marks kept under the

Patents, Designs and Trade Marks Act, 1883, and any trade mark which, either with or without registration, is protected by law in any British possession or Foreign State to which the provisions of the one hundred and third section of the Patents, Designs and Trade Marks Acts, 1883, are, under Order in Council, for the time being applicable.

479 A mark used for denoting that moveable property belongs to a particular person is called a property mark.

Property mark

480 Whoever marks any goods or any case, package or other receptacle containing goods, or uses any case, package or other receptacle with any mark thereon, in a manner reasonably calculated to cause it to be believed that the goods so marked, or any goods contained in any such receptacle so marked are the manufacture or merchandise of a person whose manufacture or merchandise they are not, is said to use a false trade mark

Using a false trade mark

481. Whoever marks any moveable property or goods or any case, package or other receptacle containing moveable property or goods, or uses any case, package or other receptacle having any mark thereon, in a manner reasonably calculated to cause it to be believed that the property or goods so marked, or any property or goods contained in any such receptacle so marked, belong to a person to whom they do not belong, is said to use a false property mark.

Using a false property mark

482. Whoever uses any false trade mark or any false property mark shall, unless he proves that he acted without intent to defraud, be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Punishment for using a false trade mark or property mark

Triable by Magistrate 1st Class Bailable Not Compoundable. Police may not arrest without warrant.

483. Whoever counterfeits any trade mark or property mark used by any other person shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Counterfeiting a trade mark or property mark used by another.

Triable by Magistrate 1st Class. Bailable. Not Compoundable Police may not arrest without warrant

Of Currency-Notes and Bank-Notes.

Counterfeiting currency notes or bank notes

~~498A~~ 489 Whoever counterfeits, or knowingly performs any part of the process of counterfeiting, any currency-note or bank-note, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine

Triable by Foujdar Not Bailable Not Compoundable Police may arrest without warrant

Explanation.—For the purposes of this section and of sections 489B, 489C and 489D, the expression "bank-note" means a promissory note or engagement for the payment of money to bearer or demand issued by any person carrying on the business of banking in any part of the world, or issued by or under the authority of any State or Sovereign Power, and intended to be used as equivalent to, or as a substitute for, money.

Using as genuine forged or counterfeit currency notes or bank notes

489B Whoever sells to, or buys or receives from, any other person, or otherwise traffics in or uses as genuine, any forged or counterfeit currency-note or bank-note, knowing or having reason to believe the same to be forged or counterfeit, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Triable by Court of Foujdar. Not Bailable. Not Compoundable Police may arrest without warrant.

Possession of forged or counterfeit currency notes or bank notes

489C. Whoever has in his possession any forged or counterfeit currency-note or bank-note, knowing or having reason to believe the same to be forged or counterfeit and intending to use the same as genuine or that it may be used as genuine, shall be punished with imprisonment of either description, for a term which may extend to seven years, or with fine, or with both,

Triable by Court of Foujdar. Not Bailable. Not Compoundable Police may arrest without warrant.

489D Whoever makes or performs any part of the process of making or buys, or sells, or disposes of, or has in his possession any machinery, instrument, or material for the purpose of being used or knowing, or having reason to believe that it is intended to be used, for forging or counterfeiting any currency note or bank note shall be punished with imprisonment of either description that may extend to a term for life and shall be liable also to fine

Triable by Court of the Foujdar Not Bailable Not Compoundable Police may arrest without warrant

CHAPTER XIX

OF THE CRIMINAL BREACH OF CONTRACTS OF SERVICE

490 Whoever, being bound by a lawful contract to render his personal service in conveying or conducting any person or any property from one place to another place or to act as servant to any person during a voyage or journey or to guard any person or property during a voyage or journey voluntarily omits so to do except in the case of illness or ill treatment, shall be punished with imprisonment of either description for a term which may extend to one month, or fine which may extend to one hundred rupees, or with both

Breach of contract of service during voyage or journey

Triable by any Magistrate Bailable Compoundable Police may not arrest without warrant,

Illustrations

(*a*) A a palanquin bearer being bound by legal contract to carry Z from one place to another runs away in the middle of the stage A has committed the offence defined in this section

(*b*) A a coolie being bound by lawful contract to carry Z s baggage from one place to another throws the baggage away A has committed the offence defined in this section

(*c*) A a proprietor of bullocks being bound by legal contract to convey goods on his bullocks from one place to another illegally omits to do so A has committed the offence defined in this section

(*d*) A by unlawful means compels B a coolie to carry his baggage B in the course of the journey puts down the baggage and runs away Here as B was not lawfully bound to carry the baggage he has not committed any offence

Explanation—It is not necessary to this offence that the contract should be made with the person for whom the service is to be performed It is sufficient if the contract is legally made with any person either expressly or impliedly, by the person who is to perform the service

Illustration

A contracts with a dak company to drive his carriage for a month B employs the dâk company to convey him on a journey, and during the month the company supplies B with a carriage which is driven by A A in the course of the journey voluntarily leaves the carriage Here although A did not contract with B, A is guilty of an offence under this section

Breach of contract to attend on and supply wants of helpless person.

491 Whoever, being bound by a lawful contract to attend on or to supply the wants of any person who, by reason of youth, or of unsoundness of mind, or of a disease or bodily weakness, is helpless or incapable of providing for his own safety or of supplying his own wants, voluntarily omits so to do shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to two hundred rupees, or with both

Triable by any Magistrate Bailable Compoundable Police may not arrest without warrant

Breach of contract to serve at distant place to which servant is conveyed at master's expense

492 Whoever, being bound by lawful contract in writing to work for another person as an artificer, workman or labourer, for a period not more than three years, at any place within British India to which by virtue of the contract he has been or is to be conveyed at the expense of such other, voluntarily deserts the service of that other during the continuance of his contract, or without reasonable cause refuses to perform the service which he has contracted to perform, such service being reasonable and proper service, shall be punished with imprisonment of either description for a term not exceeding one month, or with fine not exceeding double the amount of such expense, or with both, unless the employer has ill treated him or neglected to perform the contract on his part

Triable by any Magistrate Bailable Compoundable Police may not arrest without warrant

CHAPTER XX

Of Offences relating to Marriage

493 Every man who by deceit causes any woman who is not lawfully married to him to believe that she is lawfully married to him and to cohabit or have sexual intercourse with him in that belief, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine

Cohabitation caused by a man deceitfully inducing a belief of lawful marriage

Triable by Magistrate 1st Class Bailable Compoundable Police may not arrest without warrant.

494 Whoever, having a husband living, marries in any case in which such marriage is void by reason of its taking place during the life of such husband shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine

Marrying again during lifetime of husband

Exception—This section does not extend to any person whose marriage with such husband has been declared void by a Court of competent jurisdiction,

nor to any person who contracts a marriage during the life of a former husband, if such husband, at the time of the subsequent marriage, shall have been continually absent from such person for the space of seven years, and shall not have been heard of by such person as being alive within that time, provided the person contracting such subsequent marriage shall, before such marriage takes place, inform the person with whom such marriage is contracted of the real state of facts so far as the same are within her knowledge

Triable by Magistrate 1st Class Bailable Compoundable Police may not arrest without warrant

496 Whoever, dishonestly or with a fraudulent intention, goes through the ceremony of being married, knowing that he is not thereby lawfully married, shall be punished with imprisonment of either description for a

Marriage ceremony fraudulently gone through without lawful marriage

term which may extend to seven years, and shall also be liable to fine.

Triable by Magistrate, 1st Class Bailable Compoundable Police may not arrest without warrant

Adultery

497 Whoever has sexual intercourse with a person who is and whom he knows or has reason to believe to be the wife of another man, without the consent or connivance of that man, such sexual intercourse not amounting to the offence of rape, is guilty of the offence of adultery, and shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both In such case the wife shall not be punishable as an abettor

Triable by Magistrate 1st Class Bailable Compoundable Police may not arrest without warrant

497A Whoever has sexual intercourse with or entices away a person who is, or whom he knows or has reason to believe to be a widow without the consent of such person's guardian or heir, such intercourse not amounting to the offence of rape, is guilty of adultery and shall be punished with imprisonment of either description for a term which may extend to five years, or with fine or with both

Note—The widow is also liable to punishment should it be found hat she was a consenting party

Triable by Magistrate 1st Class Bailable Compoundable. Police may not arrest without warrant.

Enticing or taking away or detaining with criminal intent a married woman

498 Whoever takes or entices away any woman who is and whom he knows or has reason to believe to be the wife of any other man, from that man, or from any person having the care of her on behalf of that man, with intent that she may have illicit intercourse with any person, or conceals or detains with that intent any such woman, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Triable by any Magistrate. Bailable Compoundable Police may not arrest without warrant.

CHAPTER XXI

Of Defamation

499 Whoever by words either spoken or intended to be read, or by signs or by visible representations, makes or publishes any imputation concerning any person intending to harm, or knowing or having reason to believe that such imputation will harm, the reputation of such person, is said, except in the cases hereinafter excepted, to defame that person — Defamation.

Explanation 1—It may amount to defamation to impute anything to a deceased person, if the imputation would harm the reputation of that person if living, and is intended to be hurtful to the feelings of his family or other near relatives

Explanation 2—It may amount to defamation to make an imputation concerning a company or an association or collection of persons as such

Explanation 3—An imputation in the form of an alternative or expressed ironically, may amount to defamation.

Explanation 4—No imputation is said to harm a person's reputation, unless that imputation directly or indirectly, in the estimation of others, lowers the moral or intellectual character of that person, or lowers the character of that person in respect of his caste or of his calling, or lowers the credit of that person, or causes it to be believed that the body of that person is in a loathsome state, or in a state generally considered as disgraceful

Illustrations

(a) A says—"Z is an honest man, he never stole B s watch intending to cause it to be believed that Z did steal B s watch This is defamation, unless it fall within one of the exceptions

(b) A is asked who stole B s watch A points to Z, intending to cause it to be believed that Z stole B s watch That is defamation, unless it fall within one of the exceptions

(c) A draws a picture of Z running away with B s watch, intending it to be believed that Z stole B's watch This is defamation, unless it fall within one of the exceptions

Imputation of truth which public good requires to be made or published

First Exception—It is not defamation to impute anything which is true concerning any person, if it be for the public good that the imputation should be made or published. Whether or not it is for the public good is a *question of fact*.

Public conduct of public servants

Second Exception—It is not defamation to express in good faith any opinion whatever respecting the conduct of a public servant in the discharge of his public functions, or respecting his character, so far as his character appears in that conduct, and no further.

Conduct of any person touching any public question

Third Exception—It is not defamation to express in good faith any opinion whatever respecting the conduct of any person touching any public question, and respecting his character, so far as his character appears in that conduct, and no further.

Illustration

It is not defamation in A to express in good faith any opinion whatever respecting Z's conduct in petitioning Government on a public question, in signing a requisition for a meeting on a public question, in presiding or attending at such meeting, in forming or joining any society which invites the public support, in voting or canvassing for a particular candidate for any situation in the efficient discharge of the duties of which the public is interested.

Publication of reports of proceedings of Courts

Fourth Exception—It is not defamation to publish a substantially true report of the proceedings of a Court of Justice, or of the result of any such proceedings.

Explanation.—A Justice of the Peace or other officer holding an enquiry in open Court preliminary to a trial in a Court of Justice, is a Court within the meaning of the above section.

Merits of case decided in Court or conduct of witnesses and others concerned

Fifth Exception—It is not defamation to express in good faith any opinion whatever respecting the merits of any case, civil or criminal, which has been decided by a Court of Justice, or respecting the conduct of any person as a party, witness or agent, in any such case, or respecting the character of such person, as far as his character appears in that conduct, and no further.

Illustrations.

(a) A says—"I think Z's evidence on that trial is so contradictory that he must be stupid or dishonest." A is within this exception if he

says this in good faith, inasmuch as the opinion which he expresses respects Z s character as it appears in Z s conduct as a witness, and no further.

(*b*) But if A says—" I do not believe what Z asserted at that trial because I know him to be a man without veracity," A is not within this exception, inasmuch as the opinion which he expresses of Z s character, is an opinion not founded on Z s conduct as a witness.

Sixth Exception—It is not defamation to express in good faith any opinion respecting the merits of any performance which its author has submitted to the judgment of the public, or respecting the character of the author so far as his character appears in such performance, and no further. Merits of public per formance

Explanation—A performance may be submitted to the judgment of the public expressly or by acts on the part of the author which imply such submission to the judgment of the public

Illustrations

(*a*) A person who publishes a book, submits that book to the judgment of the public

(*b*) A person who makes a speech in public submits that speech to the judgment of the public

(*c*) An actor or singer who appears on a public stage, submits his acting or singing to the judgment of the public

(*d*) A says of a book published by Z—' Z s book is foolish, Z must be a weak man Z s book is indecent, Z must be a man of impure mind A is within this exception if he says this in good faith inasmuch as the opinion which he expresses of Z respects Z s character only so far as it appears in Z s book, and no further.

(*e*) But if A says—" I am not surprised that Z s book is foolish and indecent, for he is a weak man and a libertine," A is not within this exception, inasmuch as the opinion which he expresses of Z s character is an opinion not founded on Z s book

Seventh Exception—It is not defamation in a person having over another any authority, either conferred by law or arising out of a lawful contract made with that other, to pass in good faith any censure on the conduct of that other in matters to which such lawful authority relates Censur passed good fa by pers having ful aut over a

Illustration

A Judge censuring in good faith the conduct of a witness, or of an officer of the Court, a head of a department censuring in good faith those who are under his orders, a parent censuring in good faith a child in the presence of other children, a schoolmaster, whose authority is derived from a parent, censuring in good faith a pupil in the presence of other pupils, a master censuring a servant in good faith for remissness in service, a banker censuring in good faith the cashier of his bank for the conduct of such cashier as such cashier—are within this exception

Accusation preferred in good faith to authorised person

Eighth Exception—It is not defamation to prefer in good faith an accusation against any person to any of those who have lawful authority over that person with respect to the subject-matter of accusation.

Illustration

If A in good faith accuses Z before a Magistrate, if A in good faith complains of the conduct of Z a servant, to Z's master, if A in good faith complains of the conduct of Z, a child, to Z's father—A is within this exception

Imputation made in good faith by person for protection of his or other's interests

Ninth Exception—It is not defamation to make an imputation on the character of another, provided that the imputation be made in good faith for the protection of the interest of the person making it, or of any other person, or for the public good

Illustrations

(a) A, a shopkeeper, says to B, who manages his business—"Sell nothing to Z unless he pays you ready money, for I have no opinion of his honesty" A is within the exception, if he has made this imputation on Z in good faith for the protection of his own interests

(b) A, a Magistrate in making a report to his superior officer, casts an imputation on the character of Z Here, if the imputation is made in good faith, and for the public good, A is within the exception

Caution intended for good of person to whom conveyed or for public good.

Tenth Exception—It is not defamation to convey a caution, in good faith, to one person against another, provided that such caution be intended for the good of the person to whom it is conveyed, or of some person in whom that person is interested, or for the public good

Punishment for defamation

500 Whoever defames another shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both

Triable by any Magistrate. Bailable. Compoundable. Police may not arrest without warrant.

501. Whoever prints or engraves any matter, knowing or having good reasons to believe that such matter is defamatory of any person, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both

Printing or engraving matter known to be defamatory

Triable by any Magistrate. Bailable Compoundable. Police may not arrest without warrant.

502. Whoever sells or offers for sale any printed or engraved substance containing defamatory matter, *knowing that it contains such matter, shall be punished* with simple imprisonment for a term which may extend to two years, or with fine, or with both

Sale of printed or engraved substance containing defamatory matter

Triable by any Magistrate Bailable. Compoundable. Police may not arrest without warrant.

CHAPTER XXII

OF CRIMINAL INTIMIDATION, INSULT AND ANNOYANCE.

503 Whoever threatens another with any injury to his person, reputation or property, or to the person or reputation of any one in whom that person is interested, with intent to cause alarm to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as the means of avoiding the execution of such threat, commits criminal intimidation.

Criminal intimidation

Explanation—A threat to injure the reputation of any deceased person in whom the person threatened is interested, is within this section

Illustration

A, for the purpose of inducing B to desist from prosecuting a *civil suit, threatens to burn B's house A is guilty of criminal* intimidation.

504 Whoever intentionally insults, and thereby gives provocation to any person, intending or knowing it to be likely that such provocation will cause him to break the public peace, or to commit any other offence,

Intentional insult with intent to provoke breach of the peace.

shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Triable by any Magistrate. Bailable. Compoundable. Police may not arrest without warrant.

Punishment for criminal intimidation

506. Whoever commits the offence of criminal intimidation shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both;

Triable by any Magistrate. Bailable. Compoundable. Police may not arrest without warrant.

Act caused by inducing person to believe that he will be rendered an object of the Divine displeasure

508 Whoever voluntarily causes or attempts to cause any person to do anything which that person is not legally bound to do, or to omit to do anything which he is legally entitled to do,

by inducing or attempting to induce that person to believe that he or any person in whom he is interested will become or will be rendered by some act of the offender an object of Divine displeasure if he does not do the thing which it is the object of the offender to cause him to do, or if he does the thing which it is the object of the offender to cause him to omit,

shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Illustrations.

(a) A sits Dhurna at Z's door with the intention of causing it to be believed that, by so sitting, he renders Z an object of Divine displeasure. A has committed the offence defined in this section.

(b) A threatens Z that, unless Z performs a certain act, A will kill one of A's own children, under such circumstances that the killing would be believed to render Z an object of Divine displeasure A has committed the offence defined in this section.

Triable by any Magistrate Bailable. Compoundable. Police may not arrest without warrant

509. Whoever, intending to insult the modesty of any woman, utters any word, makes any sound or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such gesture or object shall be seen, by such woman, or intrudes upon the privacy of such woman shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

Word, gesture or act intended to insult the modesty of a woman.

Triable by any Magistrate. Bailable. Compoundable. Police may not arrest without warrant.

510. Whoever, in a state of intoxication, appears in any public place, or in any place which it is a trespass in him to enter, and there conducts himself in such a manner as to cause annoyance to any person, shall be punished with simple imprisonment for a term which may extend to twenty-four hours, or with fine which may extend to ten rupees, or with both.

Misconduct in public by a drunken person.

Triable by any Magistrate. Bailable. Compoundable. Police may not arrest without warrant.

CHAPTER XXXIII.

OF ATTEMPTS TO COMMIT OFFENCES.

511. Whoever attempts to commit an offence punishable by this Code with transportation or imprisonment, or to cause such an offence to be committed, and in such attempt does any act towards the commission of the offence, shall, where no express provision is made by this Code for the punishment of such attempt, be punished with imprisonment of any description provided for the offence, for a term of imprisonment which may extend to one-half of the longest term provided for that offence, or with such fine as is provided for the offence, or with both.

Punishment for attempting to commit offences punishable with transportation or imprisonment.

Illustrations.

(a) A makes an attempt to steal some jewels by breaking open a box, and finds after so opening the box, that there is no jewel in it. He has done an act towards the commission of theft, and therefore is guilty under this section

(b) A makes an attempt to pick the pocket of Z by thrusting his hand into Z's pocket. A fails in the attempt in consequence of Z's having nothing in his pocket A is guilty under this section.